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RESEARCH ARTICLE

The Nature of the Granting of Mineral Mining Business Licenses by Local Governments (A Study of the Southeast Sulawesi Province)

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ABSTRACT

This research discusses the nature of granting mineral mining business licenses by the Regional Government of Southeast Sulawesi Province in the context of a decentralized system. Using a normative-empirical legal research method, this research examines regulations that form the basis of local government authority, such as Law Number 4 of 2009 concerning Mineral and Coal Mining and Law Number 23 of 2014 concerning Regional Government. Normatively, this research analyzes the legal aspects governing mining licensing, while an empirical approach is used to evaluate the implementation of these regulations in the field. Research data was obtained through the study of laws and regulations as well as interviews with various relevant parties, including the Mining and Energy Office, the Regional Revenue Agency, and the Investment and One-Stop Integrated Service Office (DPMPTSP) of Southeast Sulawesi Province. In addition, the perspectives of traditional leaders, mining communities, and mining business actors were also studied to understand the effectiveness of regulations and obstacles faced in the licensing process. The results show that the transfer of authority to grant mineral mining business licenses from local governments to the central government poses administrative and economic challenges for the regions. Local governments experience limitations in controlling and supervising mining activities, thus hampering the optimization of benefits for local communities. Therefore, this study recommends the need for repositioning authority by giving a greater role to the provincial government as a counterweight between the central government and districts / cities in natural resource governance in a fair and sustainable manner.

INTRODUTION

Natural resources are a gift that must be managed fairly for the welfare of the people. Indonesia as a state of law regulates the management of natural resources in the 1945 Constitution Article 33 paragraph (3), which states that the earth, water and natural resources are controlled by the state for the prosperity of the people. The Constitutional Court in Decision Number 36/PUU-X/2012 emphasized that state control includes policy, management, regulation, management, and supervision in order to achieve public welfare. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that "The land, water, and natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people." This provision emphasizes that the management of natural resources, including mineral and coal mining, must be carried out with the principles of justice and welfare for all Indonesian people. However, in practice, the management of mining products often does not fully benefit local communities. One of the main causes is the lack of transparency and accountability in the distribution of revenue from the mining sector. Many mining-producing areas remain economically underdeveloped and lack infrastructure,

even though their natural resources are exploited in large quantities. This creates inequality between the producing regions and the beneficiary regions of mining products.

In addition, the massive exploitation of natural resources without strict supervision has caused various environmental problems. Water and soil pollution due to mining waste, massive deforestation, and ecosystem degradation are some of the negative impacts that often occur. This not only threatens environmental sustainability, but also leads to social conflicts between local communities and mining companies operating in their areas. Many indigenous peoples or local communities have lost access to their land due to mining expansion that does not consider social and cultural aspects.

To achieve a balance between economic, social and environmental interests in mining management, policies that are more oriented towards the interests of local communities are needed. One step that can be taken is to tighten the mechanism for granting mining business licenses by considering environmental aspects and social impacts. The government must ensure that each mining company has a clear and accountable environmental management plan before obtaining an operating license. In addition, strengthening the capacity of local governments in terms of supervision is also a key factor in creating better mining governance. Local governments should be given greater authority in overseeing mining activities in their areas, while still coordinating with the central government. Strengthening regulations and law enforcement against companies that violate environmental and social regulations must also be a priority to prevent exploitation that harms the community and the environment.

Community engagement in the mining licensing and management process is also a strategic step in improving accountability in the sector. Community participation in every stage of mining-related decision-making can help ensure that their interests are not ignored and that policies adopted truly reflect the needs and aspirations of local communities. Thus, the implementation of Article 33 paragraph (3) of the 1945 Constitution in the context of mining must continue to be strengthened with regulations that favor the interests of the people, stricter supervision, and increased transparency and community participation. With these steps, it is expected that Indonesia's natural resources can be managed sustainably and provide maximum benefits for the prosperity of the people, as mandated in the constitution.

THEORETICAL FRAMEWORK

The theoretical framework for analyzing the implementation of Article 33(3) of the 1945 Constitution in the management of mineral and coal mining in Indonesia is grounded in several key theories that provide insights into the legal, economic, and governance aspects of natural resource management. Legal positivism, as advocated by figures like Hans Kelsen, asserts that laws derive their validity from formal enactment rather than moral considerations. In the context of Article 33(3) of the 1945 Constitution, legal positivism reinforces the notion that the state has supreme authority over natural resources, ensuring that their management aligns with national interests. This principle is reflected in laws such as Law No. 3 of 2020 on Mineral and Coal Mining, which mandates state control over the mining sector. Resource nationalism emphasizes that natural resources should be owned, managed, and utilized primarily for the benefit of the nation. This theory aligns with Article 33(3), which mandates that land, water, and natural resources be controlled by the state for the greatest prosperity of the people. The Indonesian government’s policies, including the obligation for foreign companies to divest shares to local entities and the prohibition of raw material exports, reflect this approach. The public trust doctrine posits that certain natural resources are held by the state in trust for public use and benefit. In Indonesia, this principle underlies governmental oversight and regulation of the mining industry to prevent exploitation that benefits only a few stakeholders while ensuring sustainability and equitable distribution of mining revenues. The concept of sustainable development, as outlined by the Brundtland Commission (1987), emphasizes balancing economic growth, environmental protection, and social welfare. The management of mineral and coal mining in Indonesia must consider environmental sustainability, reflected in legal requirements for environmental impact assessments (AMDAL) and corporate social responsibility (CSR) programs by mining companies. Good governance principles—such as transparency, accountability, and public participation—are crucial in managing mining resources. The effectiveness of Indonesia’s mining regulations depends on adherence to these principles, ensuring that resource management benefits

society rather than being prone to corruption or mismanagement. The economic rent theory suggests that natural resource wealth can generate substantial revenue for the state, but improper management can lead to inefficiencies or rent-seeking behavior. Furthermore, the 'resource curse' phenomenon warns that countries rich in natural resources often experience economic instability due to overreliance on extraction industries. This highlights the importance of prudent policy implementation in Indonesia's mining sector. The theoretical framework for understanding the implementation of Article 33(3) of the 1945 Constitution in Indonesia's mineral and coal mining sector integrates legal, economic, and governance perspectives. By applying these theories, policymakers and researchers can assess the effectiveness of existing regulations and propose improvements to ensure that resource management aligns with national development goals and sustainability principles.

METHODOLOGY

This research uses a normative-empirical legal research method, which is a combination of a normative approach based on the study of laws and regulations with an empirical approach that focuses on the implementation of legal rules in practice. Normatively, this research examines regulations in the field of mining and local government, such as Law Number 4 of 2009 concerning Mineral and Coal Mining and Law Number 23 of 2014 concerning Regional Government, in order to understand the legal basis for granting mining business licenses by the Regional Government of Southeast Sulawesi Province. Meanwhile, an empirical approach is taken to analyze the application of these legal provisions in the field by collecting data from various related agencies, such as the Department of Mining and Energy, the Regional Revenue Agency, and the One-Stop Investment and Integrated Services Office (DPMPTSP) of Southeast Sulawesi Province. Data was also obtained from interviews with traditional leaders, mining communities, and directors of mining companies to obtain a more comprehensive perspective on the effectiveness of regulations and obstacles faced in the process of granting mining business licenses. Thus, this research not only analyzes legal aspects theoretically but also explores how regulations are applied in social and administrative reality in Southeast Sulawesi Province.

RESULTS AND DISCUSSIONS

The Nature of Granting Mineral Mining Business License by Local Government

The granting of a Mining Business License is not just an administrative process, but a strategic step in ensuring the sustainable, equitable, and in accordance with applicable regulations utilization of mineral mining resources. Therefore, it is necessary to conduct an in-depth analysis of the authority of the Regional Government in granting this license to support regional development and maintain environmental balance.

Government Authority in Granting Licenses

The Government's authority in granting mineral mining business licenses is based on various legal provisions, including the 1945 Constitution of the Republic of Indonesia (UUD 1945), the Law on Regional Government, and the Law on Mineral and Coal Mining.

Concept of Authority in Mining Licensing Law

The government has the authority to grant mining business licenses derived from the principles of attribution, delegation, and mandate as regulated in administrative law. Article 1 point 5 of Law Number 30 of 2014 concerning Government Administration explains that authority is the right possessed by government agencies or officials to make decisions and/or take actions in the administration of government.

In the context of constitutional law, the division of authority in the state is regulated in Article 18 of the 1945 Constitution which states that regional governments have the authority to regulate and manage government affairs according to the principles of autonomy and assistance tasks. Furthermore, Articles 18A and 18B of the 1945 Constitution confirm that the relationship of authority between the central and regional governments is regulated by law.

Meanwhile, in administrative law, the government's authority in issuing mining business licenses is regulated in Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning

Mineral and Coal Mining. Article 35 of Law Number 3 of 2020 states that mining business licenses are granted by the Central Government, but Regional Governments still have certain authorities in mining management in accordance with statutory regulations.

Principle of Legality in Granting Permits

The principle of legality in granting mining business licenses is based on general principles of good governance (AUPB), as stated in Article 10 of Law Number 30 of 2014 concerning Government Administration. These principles include:

Legal certainty

Expediency

Impartiality

Accuracy

Not abusing authority

Openness

Public interest

In the context of mining licensing, the Regional Government is obliged to ensure that the licenses issued do not conflict with higher legal regulations, such as Article 33 paragraph (3) of the 1945 Constitution which states that the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

Division of Authority in Granting Permits

Based on Article 35 of Law Number 3 of 2020, the authority to grant mining business licenses includes:

Issuance of Mining Business License (IUP) which is fully under the authority of the Central Government.

The authority of the Regional Government in supervising mining activities in its area, including environmental impact control and land utilization.

In addition, Article 402 of Law Number 1 of 2023 concerning the Criminal Code (KUHP) regulates that abuse of authority in licensing that harms state finances can be subject to criminal sanctions, so that in the issuance of mining business licenses, the principle of prudence must be upheld.

Scope of Authority in Licensing Law

In exercising its authority, government agencies always have a certain scope, which aims to create order and security, promote public welfare, and support development and other interests. The scope of authority consists of three main elements:

Regulatory Authority

Regulatory authority relates to the government's duties in carrying out regulatory functions. The distinction between the legislative power that functions to make laws and the executive power in regulating policies must be clearly understood. Legislative power is responsible for the formation of laws (wetgeving), while executive authority in regulating (bestuur) is related to implementation and administrative arrangements.

In the Dutch legal system, there is a “publiek rechtelijke besluiten” which is “wetgeving in materiele zin”, where regulations made by the government have binding force like laws. An example is the “Koninklijk Besluit” (KB) which includes administrative decisions that have the force of law.

In Indonesia, regulatory authority is reflected in various laws and regulations governing licenses, including in the industrial sector, where there are more than 33 laws and regulations governing the licensing process as part of the government's regulatory function.

Controlling Authority

The power to control relates to the government's duty to supervise community activities in the social, economic and political fields. The aim is to ensure that community activities run in accordance with applicable legal provisions.

The concept of a welfare state encourages government involvement in various aspects of community life, including through regulation and supervision stemming from provisions in the 1945 Constitution of the Republic of Indonesia, such as:

Article 23 (financial and taxation policies),

Article 26 and Article 27 (rights and obligations of citizens),

Article 28 (human rights),

Article 29 (freedom of religion),

Article 32 (national culture),

Article 33 (national economy and social welfare).

As part of the supervisory function, the government has licensing instruments that must comply with the principle of legality. All administrative decisions in granting licenses must be based on law and can be tested for validity through available legal mechanisms.

Power to Sanction (Law Enforcement)

The power to sanction is an important element of administrative law. The function of sanctions is to ensure compliance with established rules. Sanctions can be in the form of administrative warnings, fines, license suspension, to license revocation.

In the Dutch legal system, the imposition of sanctions is regulated in regulations that have the same legal force as laws. In contrast, in Indonesia, administrative sanctions can be given through laws and regulations as well as ministerial decisions or other authorized officials.

Authority Responsibility in Licensing Law

The use of authority by government bodies is always accompanied by responsibility. The principle in administrative law emphasizes that every authority granted must be tested and accounted for. Errors in the use of authority can be challenged through judicial mechanisms to ensure legal protection for individuals who feel aggrieved.

The concept of “state liability” emphasizes that the state must compensate for losses arising from unlawful government actions. One form of state liability is “vicarious liability”, whereby the state is responsible for mistakes made by government officials or apparatus in carrying out their duties.

In the Netherlands, the liability of public bodies is regulated in its constitution, which authorizes the general courts to handle civil law cases and claims for damages caused by government administrative actions. In Indonesian law, the responsibility of the government in issuing permits can be tested through administrative justice mechanisms, such as through the State Administrative Court (PTUN), if there are allegations of abuse of authority in the issuance of permits.

Thus, the scope of authority in the law of granting permits includes the authority to regulate, control, and enforce the law through sanctions, with legal responsibility inherent in every administrative decision taken by the government.

If the principles of proper government are used as the basis in the decision-making procedure for the requested permit, then there must be an assertion that these principles are procedural norms that must be obeyed by the authorized body or official. However, in reality, there is no firm legal definition and measurement of the principles of decision-making. Although a principle is not a law, but because it has been legitimized by legal provisions, strict limits on general principles of good governance must be applied. If these limitations are compared with the provisions in Law No. 28/1999 on State Administration Clean from Corruption, Collusion and Nepotism, it can be seen that the law has provided clear limitations on these principles, as stipulated in Article 3.

Regarding the state's responsibility in public services, not many countries have a constitution like South Korea, which determines the state's obligations explicitly and states that the state cannot avoid responsibility for the actions it has taken. This is different from the 1945 Constitution. However, there is a commonality of thought that in principle the state's responsibility to bear the burden of harm or remedies is always linked to fundamental rights. The problem faced in many countries is that although citizens are entitled to a remedy if their rights are violated, the recognition of this right still depends on the extent to which the state establishes the mechanism for the remedy. Therefore, the key to state responsibility in remedies is the existence of a rights violation (ubi jus ibi remedium) and the establishment of a remedy by the state for the violation (ubi remedium ibi jus).

Every drafting of laws and regulations must be based on philosophical, juridical, and sociological foundations. The philosophical foundation reflects the views and inner attitudes of the community towards the implementation of these regulations. The inner attitude or view of the Indonesian people towards the implementation of mineral and coal mining activities is emphasized in the Preamble of the 1945 Constitution, Article 33 paragraph (3) of the 1945 Constitution, as well as in Law Number 4 of 2009 and Law Number 3 of 2020 concerning Mineral and Coal Mining. In the Preamble of the 1945 Constitution, the objectives of the state include protection for all Indonesian people, improvement of general welfare, improvement of the nation's intelligence, and implementation of world order. One of the main objectives of the Unitary State of the Republic of Indonesia is to improve people's welfare through the optimization and utilization of natural resources.

Article 33 paragraph (3) of the 1945 Constitution affirms that the earth, water and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people. According to P. L. Courtrier, there are two important aspects to this article. First, the ownership of natural resources does not belong to a particular individual or region, but to all Indonesian people, so that its utilization is regulated by the state. Second, the natural resources must be produced and utilized for the welfare of the people within predetermined limits, such as the optimization of added value and fair distribution.

Philosophically, state control over mineral and coal mining is reflected in Law No. 4/2009, which states that minerals and coal are non-renewable natural resources and play an important role in meeting the needs of society. Therefore, its management must be controlled by the state in order to provide added value to the national economy and achieve people's welfare in an equitable manner. This natural wealth is a gift from God Almighty, so the state is obliged to manage it in order to provide optimal benefits for the community. However, in reality, many natural resources with great potential are managed by foreign investors, such as the management of natural resources in Papua and Batu Hijau, West Nusa Tenggara, which are controlled by US companies.

Meanwhile, illegal mining activities carried out by local communities often do not receive serious attention from the government, both central and regional. As a result, many illegal miners experience accidents such as being buried by landslides, and in some cases there is a struggle for mining locations based on the law of the jungle. If this is left unchecked, various problems and losses will arise for the community and local government.

Article 33 paragraph (3) of the 1945 Constitution provides a constitutional basis that the earth, water and natural resources, including mineral and coal mining, are under the authority of the state. The state through the government has the authority to regulate, administer, manage, and supervise the management and utilization of natural resources. From the perspective of the philosophy of science, the study of mineral and coal mining regulations includes aspects of ontology, epistemology, and axiology. In terms of ontology, Law Number 3 of 2020 which replaces Law Number 4 of 2009 still does not fully answer legal needs in the implementation of mineral and coal mining. From the epistemology aspect, there are overlaps in mining licensing between central and regional level regulations. Meanwhile, from the axiological aspect, the utilization of mineral mining natural resources for the welfare of the Indonesian people is still not optimal.

National development aims to realize the welfare of the people as stipulated in Article 33 paragraph (3) of the 1945 Constitution. This article is located in Chapter XIV of the 1945 Constitution on National Economy and Social Welfare, which is part of the ideals of Indonesian independence. The state has the responsibility to ensure that natural resource management is carried out effectively and efficiently for the benefit of the people, by prioritizing the balance between economic utilization and

environmental sustainability. Therefore, policies governing mineral and coal mining must consider aspects of sustainability, equitable distribution of benefits, and protection of the rights of communities around mining areas.

It should be realized that the natural wealth contained in the bowels of the earth is a non-renewable natural resource. Therefore, its management needs to be carried out as optimally as possible by prioritizing the principles of efficiency, transparency, sustainability, environmental insight, and justice. All of this boils down to efforts to realize the greatest prosperity of the people in a sustainable manner as affirmed in Article 33 paragraph (3) of the 1945 Constitution.

Regarding the authority of state control over the management of natural resources in the form of mineral and coal mining in Indonesia, its management is the authority of the executive. The right of control over natural resources owned by the state as stated in Article 33 paragraph (3) of the 1945 Constitution makes the state authorized to grant power to business entities or individuals to cultivate excavation materials in the Indonesian mining jurisdiction in a power of attorney or mining license. Mineral and coal mining management is further regulated in Law Number 4 of 2009 concerning Mineral and Coal Mining. The law has given legality and or authority to the government in the management of mineral and coal mining. This is in line with Ridwan HR's opinion which states that every state and government administration must have legitimacy, namely the authority granted by law. Authority is an understanding derived from the law of government organization, which can be explained as all the rules relating to the acquisition and use of government authority by public law subjects in public legal relations. The authority of the government in this regard is considered as the ability to implement positive law, and by doing so, a legal relationship between the government and citizens can be created.

With regard to the authority described above in relation to mineral and coal mining management, the central government and local governments have been given legality and or authority through Law Number 4 of 2009 concerning Mineral and Coal Mining to carry out various legal actions in regulating, managing, distributing, and supervising the management of mineral and coal mining in the Indonesian mining jurisdiction. Local governments are given the authority to make legal products in the form of regional regulations on mineral and coal mining management.

As a philosophical basis for granting authority to the government in the management of mineral and coal mining, it can be seen in the consideration of Law Number 4 of 2009 which states that minerals and coal contained in the Indonesian mining jurisdiction are non-renewable natural resources as a gift from God Almighty which has an important role in fulfilling the lives of many people. Therefore, its management must be controlled by the state to provide real added value to the national economy in an effort to achieve the prosperity of the people in an equitable manner.

The government, including provincial and district / city governments that are given authority by the state in mineral mining management through laws and regulations, are obliged to provide tangible benefits in improving welfare to the community, both local, regional and national. Mineral mining management that does not provide tangible benefits in improving the welfare of the community, especially in regions that are autonomous areas of local government, is a denial of Pancasila and the 1945 Constitution of the Republic of Indonesia.

Regional government as part of the state administration system automatically functions to provide leadership in state organizations in order to fulfill their state duties in achieving state goals. In achieving these goals, the provincial government is given the authority to take various actions to realize the state's goals. Government authority comes from the applicable laws and regulations. In other words, authority is only given by law, where the legislator can grant authority to the government, both to government organs and government apparatus. In the administration of regional government, the regional head has the duties and authorities stipulated in Article 65 paragraph (2) of Law Number 23 of 2014 concerning Regional Government.

As one of the authorities of regional government organizers, the formation of regional regulations on mineral and coal mining management is an authority given to regional governments. This is regulated in Article 7 letter (a) of Law Number 4 Year 2009. Local government organizers have the authority in mineral mining management. Local government administrators in leading the administration of government have been given the authority to manage and manage their own household affairs based

on the principle of autonomy, namely decentralization, deconcentration, and assistance tasks. One of the authorities given to the provincial government is the issuance of mining business licenses.

According to Utrecht in Adrian Sutedi, a permit (vergunning) is a state administrative action that allows an act that is generally prohibited, under certain conditions determined in a concrete case. In addition, a permit can also be interpreted as approval from the authorities based on laws or government regulations to deviate from the prohibited provisions in the laws and regulations in certain circumstances. Permission can also be interpreted as dispensation or release/exemption from a prohibition.

In the management, utilization, and distribution of natural resources in the form of mineral and coal mining, one of the juridical instruments used by the government, including the provincial government, is a permit. Law No. 4/2009 has authorized the government, both provincial and district / city governments, to use licensing instruments in the management of mineral and coal mining. The legal arrangement of the provincial government's authority in mineral and coal mining management has been regulated in Article 7, including the making of regional laws and regulations and the granting of Mining Business License (IUP). However, with the presence of Law Number 3 of 2020, the authority of provincial governments in granting mining business licenses for special metal and coal minerals has been transferred to the central government, so that provincial governments only have authority in non-metal mineral mining or rock mining (Group C).

Legal legitimacy related to the authority of local governments in mining management was first regulated in Law Number 22 of 1999 concerning Regional Government. Article 10 of the law states that regions are authorized to manage national resources available in their territory and are responsible for maintaining environmental sustainability in accordance with statutory regulations. This law has undergone several changes until it was replaced by Law Number 23 of 2014 concerning Regional Government, in which the authority to manage natural resources is regulated in Article 9, Article 11, and Article 12.

Following up on these provisions, regional authority in natural resource management is regulated in Law No. 4/2009 on Mineral and Coal Mining. Article 37 letters a and b state that IUP is granted by the regent/mayor if the WIUP is within one regency/city, and by the governor if the WIUP is located across regencies/cities in one province after obtaining a recommendation from the local regent/mayor in accordance with statutory provisions.

The implementation of the mining law has had a positive impact on the development of regions that have mineral mining areas. For example, the Southeast Sulawesi Provincial Government has a large metal mineral mining area, so the community's economic growth rate has increased. However, after the issuance of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009, the regional economy from the mining sector has decreased. Data from the Southeast Sulawesi Provincial Statistics Agency shows that the regional economic growth rate in the mining sector in the 2019-2023 period experienced a downward trend.

Since the authority to manage metal mineral mining has been transferred to the central government, there has not been an increase in the welfare of local communities and has not had a significant impact on regional infrastructure development. When the authority is in the provincial government, the source of regional income is more transparent and measurable in the revenue sharing mechanism with the central government. Revenue from the mining sector is a non-tax state revenue (PNBP) whose value is large compared to other sectors such as agriculture and fisheries. However, after the transfer of authority, provincial governments no longer have control over instruments or technical supervision of metal mineral mining management.

Currently, after the enactment of Law No. 3 of 2020, the Southeast Sulawesi Provincial Government only has authority over non-metallic mineral mining or class C mining, such as sand, limestone, dolomite, gypsum, kaolin, marble and granite. When compared to metal mineral mines, their economic value is much lower. This leads to the assumption that the transfer of authority to manage metal mineral mining to the central government is based more on the revenue value of the mineral content.

The transfer of authority for mineral mining business licenses to the central government has not provided an increase in welfare for local communities, because the management of metal mineral

mining revenues is not transparent. In addition, until now the central government has not issued a Work Plan and Budget (RKAB) for companies that own mining business licenses, thus hampering the regional economy from the mining sector.

According to the Head of the Southeast Sulawesi Regional Revenue Agency, since the government took over the authority to issue metal mineral mining business licenses, the provincial government no longer has the authority to receive revenue from mining management because the revenue is in the form of PNBP which is directly deposited to the central government. Local revenue from mining is now only in the form of revenue sharing from the central government, but the amount cannot be known with certainty by the local government because the revenue is directly from the company that owns the IUP to the central government.

Since the authority of metal mineral mining licenses was handed over to the central government, local governments do not know the amount of PNBP revenue from mining companies. Although the number of mining business licenses in the region is quite large, the nominal non-tax state revenue cannot be known by the local government because it does not have the legality to monitor and know the company's payment obligations. This has an impact on the lack of transparency of non-tax state revenue, which affects local revenue from the mining sector.

The transfer of authority to grant mining business licenses from the provincial government to the central government through Law Number 3 of 2020 is a logical consequence of the principle of the Unitary State as stated in Article 1 paragraph (1) of the 1945 Constitution which states that the State of Indonesia is a Unitary State in the form of a Republic. This principle requires the central government to have full authority in the management of national resources.

However, with the phrase “in the form of a Republic”, Indonesia's system of government is based on the principle of popular sovereignty, where supreme power rests with the people exercised through their representatives. The government must be democratic, uphold the law, and be oriented towards the interests of the people. Therefore, the central government should not act arbitrarily towards local governments, but must always be based on fair laws and regulations in order to realize a good governance system.

In Abdurahman's opinion, there are two forms of systems in a unitary state, namely centralized and decentralized systems. Centralization places all government management authority in the central government, while decentralization gives some authority to local governments through the constitution (UUD), called attribution authority.

Juridically, the Unitary State of the Republic of Indonesia adheres to the principle of decentralization as stipulated in Article 18 of the 1945 Constitution as a manifestation of popular sovereignty and the rule of law. The implementation of decentralization and regional autonomy in mineral mining management by local governments is regulated in Law Number 23 of 2014 concerning Regional Government in Article 9 paragraphs (3) and (4), Article 11 paragraph (1), and Article 12 paragraph (3) letter e. This provision confirms that concurrent government affairs are divided between the central government and provincial and district / city regions, where the authority devolved to the regions becomes the basis for implementing regional autonomy. Thus, the transfer of authority over metal mineral mining to the central government needs to be reviewed to be in line with the principle of decentralization that ensures regional welfare.

CONCLUSSION

The nature of granting mineral mining licenses by local government is closely related to the principle of decentralization in a unitary state system, which aims to realize justice and public welfare. system, which aims to realize justice and the welfare of the local community proportionally in the management of natural resources. proportionally in the management of natural resources. However, in reality, the local government has not been able to fully prosper the community due to the the transfer of authority to grant metal mineral mining business licenses to the central government. central government. As a solution, the authority should be handed over to provincial government, given the role of the province as a counterweight between the central government and regency/city governments. central government and regency/city governments. Thus, provincial government can coordinate all technical and administrative information in mining management in the region. and administration in mining management in the region more effectively. effectively.

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