



LEGAL INSIGHT INTO UU MINERBA AND ITS IMPLICATION TOWARDS THE MOTHERLAND

ALSA LEGAL ENGLISH HANDBOOK



A Guide To Improve Your English
English Development Division

FOREWORD

*Assalamualaikum Wr. Wb.
Shalom,
Om Swastiastu,
Namo Buddhaya,
Salam Kebajikan untuk kita semua.
Greetings everyone!*

The Asian Law Students' Association (ALSA) Local Chapter Universitas Brawijaya is a non-profit, non-political organization that supports empowered growth. As one of the 15 Local Chapters under the Asian Law Students' Association National Chapter Indonesia, ALSA Local Chapter Universitas Brawijaya has consistently, for 30 years, focused on realizing the Vision and Objectives of ALSA. ALSA has always been a progressive organization that prioritizes the four pillars of ALSA to create individuals who are internationally minded, socially responsible, academically committed, and legally skilled. All of this benefits ALSA globally and contributes to society. As a law student organization, ALSA is committed to facilitating its members in acquiring strong legal knowledge. Both practical and theoretical education are key ways we contribute to our community.

I, Rayhan Nurrahman Adiprawira, the Director of ALSA Local Chapter Universitas Brawijaya for the 2024/2025 term, am proud to present this ALSA Legal English Handbook. This periodical publication aims to provide understanding of various legal issues. In this 11th volume, with the theme "Legal Insight Into UU Minerba and Its Implications Towards the Motherland," we hope that this handbook will offer new perspectives on the connection and impact of Mineral and Coal Mining Law in Indonesia for our readers. We hope that all of our readers gain valuable knowledge and resources for future reference. May we all contribute meaningfully by fully supporting young Indonesian students who aim to build our beloved country, Indonesia.

*Wassalamualaikum Wr. Wb.
Shalom,
Om Shanti-Shanti Om,
Namo Buddhaya,
Salam Kebajikan.*

*Together we will be,
Connected as one,
ALSA, Always be One!*



Rayhan Nurrahman Adiprawira
Director ALSA LC Universitas Brawijaya

FOREWORD

*Assalamualaikum Wr. Wb.
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To begin with, let us thank the Almighty God for his mercy and benevolence, we are able to publish this edition of ALSA Legal English Handbook. ALSA Legal English Handbook is an activity which occurs every three months that provides information on various legal topics and to learn more legal terminologies.

In this volume, we focus on the Mineral and Coal Mining Law (UU Minerba). The handbook discusses the legal basis governing mineral and coal mining, government governance in UU Minerba, and the impact of UU Minerba on the environmental and social aspects. It also discusses the comparison of UU Minerba with regulations related to mineral and coal mining in other countries, which makes it an important point for the reconstruction of UU Minerba.

As the Person in Charge, I am honored to present ALSA Legal English Handbook Volume 11. I hope that this handbook will provide valuable knowledge to the readers. Lastly, I sincerely thank all the people who contributed to the completion and success of this handbook.

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Zahiira Azizi Ramdhani
Person in Charge
ALSA Legal English Handbook Vol. 11

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Chapter 1 : Introduction

1.1 Definition of UU Minerba

The term of mining law comes from the Dutch translation of *mijnrecht*. Joan Kuyek stated the definition of mining law as a set of rules aimed at protecting interest related to the mining industry and to minimize conflicts between mining companies and provide general explanations to anyone who has the rights to carry out mining activities.[1] By regulations, the law concerning minerals and coal in Indonesia is Law Number 4 of 2009 on Mineral and Coal Mining (UU Minerba). Mineral and coal mining law is administrative in nature since both the government and regional governments have a higher position in the process of granting licenses to People's Mining License (IPR), Mining Business License (IUP), or Special Mining Business License (IUPK) holders. Unlike the contract system, to cancel any contract that has been made, it is necessary for one of the parties to submit the cancellation to the court or international arbitration institution. [2] From the philosophical point of view, the legal principles in the UU Minerba are; benefits, justice, balance, partiality to the interest of the nation, participatory, transparency, accountability, and sustainable and environmentally sound. [3]

First enacted in 2009 and later revised in 2020, UU Minerba aims to strengthen state control over natural resources, promote domestic processing, and ensure sustainable mining practices. UU Minerba refers to government regulations that oversee the extraction, processing, and management of a country's mineral and coal resources. UU Minerba serves as the primary legal framework governing the mining sector. This law outlines the rights and obligations of mining companies, the licensing process, revenue distribution, and environmental protection measures. It also seeks to balance economic benefits with environmental responsibility by requiring mining companies to conduct reclamation and post-mining rehabilitation. Article 6 of UU Minerba stipulates twenty-one authorities of the government in mineral and coal mining management. In general, the objectives of UU Minerba are set out in Article 3. Through these regulations, the Indonesian government strives

[1] Salim, H.S., *Hukum Pertambangan Mineral dan Batubara*. (Jakarta: Sinar Grafika, 2012), hlm. 12.

[2] Ibid., hlm. 21-22

[3] Pasal 2 Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara

to maximize the benefits of its rich mineral and coal resources while addressing social and environmental concerns.

1.2 The History of UU Minerba

Natural resource management has been written in the Indonesian constitution namely the 1945 Constitution of the Republic of Indonesia. Article 28 H paragraph (1) of the 1945 Constitution states, "Every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and the right to obtain health services." Thus, it can be understood that, when referring to the Indonesian constitution, mineral and coal mining must be oriented towards the welfare of every individual. The mining sector had difficulty developing due to Indonesia's less competitive position in attracting investment. [4] In this case, the main key to the implementation of mining that is able to realize certainty, welfare, and justice is the establishment of regulatory pillars in the mining sector. For this reason, since 2009, the Indonesian government has issued regulations in the form of laws and regulations to regulate all mining licenses from upstream to downstream, which are regulated in Law Number 4 of 2009 concerning Mineral and Coal Mining (UU Minerba).

Over time, this situation has changed drastically. Compared to 50 years ago, Indonesia's position today is much stronger. Economic conditions in the mineral and coal sector (Minerba) have undergone many changes, moreover the supply of mineral and coal availability is no longer as abundant as in the past. [5] After 11 years since the enactment of Law 4 of 2009 on Mineral and Coal (UU Minerba), the Indonesian government has finally made strategic changes in the mining sector. Amendments to Law 4 of 2009 have been included in the national legislation program since 2015. However, this revision plan reaped various pros and cons in the community, so that these changes could only be realized in 2020 through the ratification of Law Number 3 of 2020 which amended the Minerba Law.

[4] Darongke, F., Rumimpunu, D., & Roeroe, S. (2022). Efektivitas Undang-Undang Nomor 3 Tahun 2020 dalam Pemberian Izin Usaha Pertambangan Mineral di Indonesia. *Lex Privatum*, 10(3). <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/41456>

[5] Josses, A. (2024). Problematika hukum revisi UU Minerba: Nilai keadilan sosial yang diabaikan. *Unizar Law Review*, 7(2), 212-224. <https://doi.org/10.36679/ulr.v7i2.81>

The 2020 Minerba Law strengthens the role of the central government in managing the mining sector and simplifies the licensing process. In 2020, the government again revised the Minerba Law through Law Number 3 of 2020, which strengthens the role of the central government in mining management and simplifies the licensing process. [6] The revision of the Minerba Law covers a number of important issues that have a broad impact on the management of mineral and coal resources in Indonesia. One of the main objectives of this revision is to encourage the acceleration of mineral and coal downstreaming. Environmental and post-mining aspects also receive greater attention, reflecting an awareness of the importance of sustainability in the mining sector. In the end, the Minerba Law became the target of criticism from various parties, especially non-governmental organizations and environmental activists who considered a number of substances in the Minerba Law articles to be in favor of mineral and coal mining companies. Some legal issues that are considered quite controversial in the Minerba Law are the centralization of mining permits, the potential for criminalization of someone who rejects mining companies to the potential environmental damage that can occur more widely and severely.

1.3 The Role of UU Minerba

The Minerba Law was created to balance the utilization of natural resources, economic interests, and environmental welfare. This law was also made to ensure that natural resources in Indonesia, especially in the mining sector, can provide maximum benefits for the people of Indonesia. [7] Therefore, the Minerba Law plays a very important role in regulating the mining, mineral and coal sector in Indonesia.

In general, the Minerba Law has a main role, including playing a role in regulating and supervising mining, where the Minerba Law plays a role in establishing rules related to licensing, exploration, exploitation, and the obligations of mining companies, and in this case the government has

[6] Wandayati, D. R., & Siregar, N. R. (2020). Wilayah Pertambangan Pasca UU No. 3 Tahun 2020 tentang Pertambangan Mineral dan Batubara di Masa yang akan Datang. *Paradigma Jurnal Multidisipliner Mahasiswa Pascasarjana*, 1(1). <https://doi.org/10.22146/jpmmmpi.v1i1>

[7] Toruan, N. (2023). *Pengelolaan Program Pengembangan dan Pemberdayaan Masyarakat di Sektor Usaha Pertambangan Mineral dan Batubara*. Tesis. https://repository.unsri.ac.id/106936/18/RAMA_74101_02012681923066_0025106204_0011116302_01_front_ref.pdf

the main authority in supervising the implementation of mining activities so that they are in accordance with regulations and managed for the national interest.[8] The Minerba Law also has a role to ensure state sovereignty over natural resources, the Minerba Law regulates that the management of mineral and coal resources can be optimally utilized for the national interest and sustainable community welfare in a fair, transparent, accountable, and sustainable manner, by organizing rules, norms, standards, procedures and criteria for good mineral and coal management. [9] In addition to natural resources, the Minerba Law also plays a role in improving the quality of human resources, by creating more jobs and local labor obligations that ensure the effective implementation of mining activities in an efficient, effective and competitive manner. So that it can increase the resilience of the Mineral and Coal-based national industry, and develop national capabilities to be able to compete in the industry at the national, regional and international levels. [10] In addition, the Minerba Law implies regulations that require companies to carry out reclamation and post-mining to reduce negative impacts on the environment. [11] The Minerba Law also tightens licensing to ensure mining activities in Indonesia are carried out legally to avoid damaging the environment. The Minerba Law is the legal basis for the management of the mineral and coal mining sector in Indonesia, which will penalize illegal mining activities that can damage the environment. [12]

The role of the Minerba Law is extremely important for the mining sector in Indonesia. But in reality, the implementation of this regulation still faces various problems. If the role of the Minerba Law is not implemented properly, various negative impacts can occur, both in terms of economic, environmental, social and legal aspects.

[8] Philantropy, "Kenali Hukum dan Regulasi dalam Sektor Pertambangan" Minercomedia, November 12, 2024, <https://www.minercomedia.com/2024/11/12/kenali-hukum-dan-regulasi-dalam-sektor-pertambangan/>

[9] Kementerian Energi dan Sumber Daya Mineral, "Kebijakan Mineral dan Batubara Indonesia", 2020.

[10] Darongke, F., Rumimpunu, D., & Roeroe, S. (2022). Efektivitas Undang-Undang Nomor 3 Tahun 2020 dalam Pemberian Izin Usaha Pertambangan Mineral di Indonesia. *Lex Privatum*, hlm.4. <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/41456>

[11] Ibid., hlm.2

[12] Najicha, F., "Naskah Akademik Minerba UU No. 3 Tahun 2020 Perubahan UU No. 4 Tahun 2009 tentang Minerba," Academia.edu, 2020, https://www.academia.edu/43445560/NASKAH_AKADEMIK_MINERBA_UU_No_3_Tahun_2020_PERUBAHAN_UU_NO_4_Tahun_2009_tentang_Minerba

Chapter 2: Legal Basis of Mineral and Coal Mining Law

2.1 Article 33 of The 1945 Constitution of The Republic of Indonesia

The Republic of Indonesia (UUD 1945) Constitution's Article 33 is the primary document that establishes the constitutional foundation for the state's economy and the state's control over natural resources, including the earth, water, and wealth found therein, to be used as much as possible for the people's prosperity.[13] When people discuss Article 33 of the 1945 Constitution, the topics of the economy, natural resources, and social welfare immediately spring to mind. In the problems outlined above, this can be linked to Article 33 of the 1945 Constitution, which states; Article 33 paragraph (1) states that the Indonesian economy is structured based on the principle of family. Article 33 paragraph (3) states that the earth, water and natural resources are controlled by the state and used for the welfare of the people.

According to the terms of Article 33 of the 1945 Constitution, the 2002 amendment's outcome is as follows:

1. The economy is structured as a family-based joint venture.
2. The State controls the sectors of production that are vital to the State and to the control of many people's lives.
3. The state is in charge of the earth, the water, and the natural resources it contains, and it uses them to maximise the prosperity of its citizens.
4. Economic democracy is the foundation of the national economy, which is upheld by the values of solidarity, equality, sustainability, environmental awareness, and independence, as well as by preserving the equilibrium between economic growth and unity.
5. Additional guidelines for putting this article into practice are regulated by the law[14]

[13]Wibowo, Suyanto Edi. "Memahami Makna Pasal 33 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Perihal Penguasaan Oleh Negara Terhadap Sumber Daya Alam Comprehend The Meaning Of Article 33 Of The 1945 Constitution Of The Republic Of Indonesia On State Authority Over Natural Resources." \

[14]Firmansyah, Arif. "Penafsiran Pasal 33 UUD 1945 dalam Membangun Perekonomian di Indonesia." Syiar Hukum: Jurnal Ilmu Hukum 14.1 (2012): 51-65

2.2 Law Number 4 of 2009 on Mineral and Coal Mining (UU Minerba)

The primary legal framework for mineral & coal mining is Law Number 4 of 2009 on Mineral and Coal Mining (UU Minerba). This law replaced Law Number 11 of 1967 concerning Basic Mining Provisions. Based on the "Online Legal Seminar on the Implementing Regulations of the Minerba Law", the Director of Minerba Business Development, Bambang Gatot Ariyono (2008-2013) explained some of the main principles behind the implementation of Law No. 4 of 2009, in addition to replacing Law No. 11 of 1967, which was considered centralistic, was to optimize state income, provide clear government authority, while restoring the functions of the central and regional governments as regulators.[15] Law Number 11 of 1967 concerning Basic Mining Provisions recognizes the term Mining Power in granting licenses, but Law Number 4 of 2009 concerning Mineral and Coal Mining (UU Minerba) replaces the Mining Power system with a system of granting legality for mining businesses with a permit system, known as a Mining Business License (IUP). In the permit system of UU Minerba, three types of permits are recognized, namely:

1. Mining Business License (IUP), which includes:
 - a. Exploration IUP; and
 - b. Production Operation IUP
2. People's Mining License (IPR); and
3. Special Mining Business License (IUPK).[16]

Article 6, 7, and 8 UU Minerba have different authorities for granting IUP depending on the Minister, Governor, Regent/Mayor's own authorities. Article 67 states that IPR can be obtained by submitting an application to the Regent/Mayor. Regarding the issuance of IPR, the Regent/Mayor can delegate the authority to grant the IPR to the Sub-District Head. Regarding IUPK's authorization as stated in Article 74 and Article 75, its priority on IUPK is for State-Owned Enterprises (BUMN) and Regionally-Owned Enterprises (BUMD).

[15]Kementerian Energi dan Sumber Daya Mineral, "Prinsip Utama UU No 4 Tahun 2009 Tentang Pertambangan Mineral dan Batubara", 24 Juli, 2009, <https://www.esdm.go.id/id/media-center/arsip-berita/prinsip-utama-uu-no-4-tahun-2009-tentang-pertambangan-mineral-dan-batubara>

[16]Pasal 35 dan 36 Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara

Also related to the rights of IUP and IUPK mining license holders are regulated in Articles 90, 91, 92 and 94, and IPR is regulated in Article 69. The obligations of IUP and IUPK holders are regulated in Articles 95 to 100, 107, 108, and 110 to 112. Production Operation IUPs and IUPKs are regulated in Article 103, and IPR is regulated in Article 70.

UU Minerba regulates various criminal offenses, most of them are directed at mining business actors and there is one type of criminal offense directed at license issuing officials in the mining sector. UU Minerba regulates mining business actions without IUP, IPR, or IUPK will be punished with a maximum imprisonment of 10 (ten) years and maximum fine of Rp10.000.000.000 (ten billion rupiah) [17]. Criminal acts related to the act of providing incorrect data or reports, the sanctions are regulated in Article 263 of the Criminal Code on Forgery of Letters (KUHP). Forgery of letters in the mining sector has been specifically regulated against the perpetrators and can be punished based on Article 159 of UU Minerba. Also related to the issuance of IUP, IPR, or IUPK that is contrary to UU Minerba and abuses its authority will be given a maximum criminal sanction of 2 (two) years and a maximum fine of Rp200.000.000 (two hundred million rupiah). Furthermore, related to the regulation of criminal acts regarding; exploration mining without rights is regulated in Article 160 Paragraph (1), holders of exploration IUP without carrying out production operation activities are regulated in Article 160 Paragraph (2), and laundering of mining goods is regulated in Article 161. [19]

[17] Pasal 158 Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara

[18] Pasal 165 Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara

[19] Pasal 158 Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara

Chapter 3: Importance of Reconstructing UU Minerba

3.1 Licensing Governance of UU Minerba

Each region in Indonesia that has the potential to possess natural resources is responsible for the management of mining. This is stated in Chapter VI of the 1945 Constitution of the Republic of Indonesia after the amendment regarding regional governance.[20] Namely Article 18A paragraph (1) of the 1945 Constitution regulates the relationship of authority between the central government and local governments. This relationship is regulated through legislation taking into account the diversity and specificity of the region.[21] In addition, it is also stated in Article 18 paragraph (5) that "Regional governments exercise the broadest autonomy, except for governmental affairs determined by law as the affairs of the Central Government".[22] Both before and after the amendments, the Constitution has at least provided guidelines for development, particularly regarding the use of land, water, and natural resources in a balanced and environmentally sustainable manner with the environment. Two philosophical foundations serve as guiding stars in the management of natural resources, particularly in the mining industry, based on the 1945 Constitution of the Republic of Indonesia, namely:

- 1.The integration of regulations guaranteeing the protection of the right to a good and healthy environment in mining governance activities;
- 2.The conduct of mining must be based on the philosophy of fair, sustainable, and environmentally conscious efficiency.[23]

The foundation of the recognition of the right to a good and healthy environment implies that the direction of legal policy aims to provide protection for the environment, especially for humans. Considering that humans are both the contribute to and suffer from environmental

[20] B. Sutrisno, "Kerancuan Yuridis Kewenangan Perlindungan dan Pengelolaan Lingkungan Hidup Dalam Perspektif Otonomi Daerah", *DiH: Jurnal Ilmu Hukum* 9, no. 17 (2013): 240059

[21] Pasal 18A ayat (1) UUD 1945

[22] Pasal 18 ayat 5 Undang-Undang Dasar 1945

[23] A. H. Januari, "Sistem Pembangunan Berkelanjutan Terhadap Tata Kelola Pertambangan," *Jurnal Hukum dan Bisnis (Selisik)* 1, no. 2 (2015): 43-65.

[24] M. J. Dewa, L. Sensu, G. Tatawu, O. K. Haris, M. S. Sinapoy, dan N. Jufri, "Penegakan Hukum dalam Tata Kelola Pertambangan Berkelanjutan Berwawasan Lingkungan," *Halu Oleo Legal Research* 5, no. 1 (2023): 62-75.

damage of the consequences of environmental damage that occurs. Therefore, the Minerba Law must be made one of the sectoral environmental laws that can integrate environmental protection in efforts to support the sustainability of human life and other living beings. [24] Furthermore, to be considered a Mining Law with an environmental protection dimension, mining governance must integrate the principles of just efficiency, sustainability, and environmental awareness. Therefore, it is necessary to test the mining law to see if the principles of environmental protection and management law have been taken into consideration and applied in its content. These principles, at least, include the precautionary principle, the polluter pays principle, the prevention principle, the principle of community participation and the recognition of customary law communities, and the strict liability principle as a form of legal accountability.

3.2 Impact of UU Minerba on Environmental and Social Aspects

The enactment of Indonesia's Mineral and Coal Mining Law (UU Minerba) has significantly impacted both the environment and social structures within mining-affected areas. While the law was designed to regulate mining activities and optimize economic benefits, its implementation has raised concerns regarding ecological sustainability and social justice. The expansion of mining activities under UU Minerba has been linked to considerable environmental degradation. Research by the World Bank highlights that regions like East Kalimantan have suffered massive deforestation, with 19% of tree cover lost over two decades due to large-scale mining operations. Mining activities also contribute to land degradation, loss of biodiversity, and pollution of water sources.[25] Many mining companies fail to implement adequate reclamation measures, leaving behind abandoned mining pits that pose safety hazards to surrounding communities.

[24] M. J. Dewa, L. Sensus, G. Tatawu, O. K. Haris, M. S. Sinapoy, dan N. Jufri, "Penegakan Hukum dalam Tata Kelola Pertambangan Berkelanjutan Berwawasan Lingkungan," *Halu Oleo Legal Research* 5, no. 1 (2023): 62-75.

[25] World Bank (2022) Indonesia receives first payment for reducing emissions in East Kalimantan. Available at: <https://www.worldbank.org/en/news/press-release/2022/11/08/indonesia-receives-first-payment-for-reducing-emissions-in-east-kalimantan> (Accessed: 14 February 2025).

From a social perspective, the implementation of UU Minerba has had both positive and negative consequences.[26] While the law strengthens state control over mineral resources, it has also been criticized for neglecting the rights of indigenous communities. Conflicts over land ownership and resource management have intensified as mining regulations fail to provide sufficient legal protection for local populations. Many indigenous groups, whose livelihoods depend on forests and natural water sources, have been displaced due to mining concessions granted without proper consultation. Furthermore, the influx of mining operations has led to social tensions, with local communities often facing economic disparities despite the wealth generated from mining activities. The uneven distribution of mining profits has fueled resentment, as only a small portion of revenues is allocated to regional development, while large corporations and the central government benefit disproportionately.

The 2020 revision of UU Minerba introduced a more centralized approach to mining governance, limiting the role of regional authorities and reducing community participation in decision-making processes.[27] This shift raises concerns about the erosion of local autonomy and the increasing influence of corporate interests in the mining sector. The lack of transparency in mining agreements and the absence of meaningful dialogue between stakeholders have further complicated efforts to ensure fair and sustainable mining practices. Additionally, waste disposal practices in major mining sites, such as the Grasberg mine in Papua, have led to severe river contamination, causing environmental groups to challenge the legality of such operations. The direct discharge of mine tailings into river systems has resulted in declining water quality and loss of aquatic life, further exacerbating environmental concerns. These ecological risks emphasize the need for stricter environmental safeguards within the framework of the law.

[26] Jamasmie, C. (2021) 'Indonesia accounts for over 50% of deforestation caused by large-scale mining', MINING.COM, 29 April. Available at: <https://www.mining.com/indonesia-accounts-for-over-50-of-deforestation-caused-by-large-scale-mining> (Accessed: 14 February 2025).

[27] Republik Indonesia (2020) Undang-Undang Nomor 3 Tahun 2020 tentang Perubahan atas Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara. Available at: <https://peraturan.bpk.go.id/Details/138909/uu-no-3-tahun-2020> (Accessed: 14 February 2025).

Ultimately, while UU Minerba aims to ensure effective resource management and economic growth, its environmental and social consequences cannot be overlooked. The challenges of balancing economic development with ecological preservation and social equity remain pressing issues. Future policy revisions must incorporate stronger environmental protection measures, enforce stricter reclamation requirements, and ensure that affected communities have a voice in mining governance. Sustainable mining practices and inclusive policy making are crucial in addressing these ongoing concerns and ensuring that natural resource exploitation does not come at the cost of environmental and social welfare. Without significant improvements in regulatory enforcement and corporate accountability, the long-term sustainability of Indonesia's mining sector remains uncertain.

3.3 Comparison of UU Minerba with Mining Regulations in Other Countries

Mining Regulations as for today are regulated in Law Number 4 of 2009 on Mineral and Coal Mining (UU Minerba). One of the legal principles in UU Minerba is justice, which legal substance, structure, and culture becomes the elements that influence law enforcement in a society or state.[28] In terms of economy and development, UU Minerba provides a great contribution to the country's economy and the regulations are able to accelerate downstreaming. UU Minerba is considered passive in the aspect of environmental protection because it is considered to focus more on the aspects of resource utilization and the environment so that there's minimal pro-ecological legal content in it.[29] It can also be seen that UU Minerba is repressive as an instrument to overcome environmental and societal problem[30],

[27] Republik Indonesia (2020) Undang-Undang Nomor 3 Tahun 2020 tentang Perubahan atas Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara. Available at: <https://peraturan.bpk.go.id/Details/138909/uu-no-3-tahun-2020> (Accessed: 14 February 2025).

[28] Suwari A., "The Strengthening Government Policies on Mineral and Coal Mining Environmental Sustainability in Indonesia, Africa and Germany". *Bestuur*, 11.1 (2023), 111 <https://doi.org/10.20961/bestuur.v11i1.71279>

[29] Faradila H., "Izin Usaha Pertambangan Mineral dan Batubara dalam Kaitan Pengelolaan dan Perlindungan Lingkungan Hidup (Fiqh Al-Bi'ah)". *Jurnal MUDARRISUNA*, 11.3 (2020), 521 <http://dx.doi.org/10.22373/jm.v10i3.7888>

while it is also stated related to societal protection in Article 145 which states that people who are negatively affected have the right to be given compensation (a) and make a lawsuit against losses due to mining operations that violate the provisions (b).

For comparison of UU Minerba with other country's Mining regulations, in Africa, namely the Ministry of Mines is responsible for monitoring and regulating mining activities at the national level, the Environmental Management Agency is responsible for monitoring and regulating mining activities that have an impact on the environment.[31] In Zambia, the legal substance which regulates mining activities is the Mining and Minerals Policy (2013) regulates and establishes a policy framework for the management of mineral resources, including environmental and occupational health and safety requirements.[32] Also in Nigeria, mining activities are regulated in Mining and Quarrying Safety and Health Regulation (2017) provides guidelines and requirements relating to occupational health and safety in mining activities.[33] This shows that the legal structure needs to pay attention to environmental and public health aspects in order to strengthen the substance of mining activities regulation.

[29] Faradila H., "Izin Usaha Pertambangan Mineral dan Batubara dalam Kaitan Pengelolaan dan Perlindungan Lingkungan Hidup (Fiqh Al-Bi'ah)". *Jurnal MUDARRISUNA*, 11.3 (2020), 521
<http://dx.doi.org/10.22373/jm.v10i3.7888>

[30] Pasal 162 Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara

[31] Suwari A., "The Strengthening Government Policies on Mineral and Coal Mining Environmental Sustainability in Indonesia, Africa and Germany". *Bestuur*, 11.1 (2023), 110
<https://doi.org/10.20961/bestuur.v11i1.71279>

[32] Ibid.

[33] Ibid.

Chapter 4 : Closing

4.1 UU Minerba's Future Potential

The amendment of the Minerba Law has captured the public's attention on the implementation of the law. This has led to many pros and cons on the potential of the regulatory changes that will be decided by the House of Representatives. However, if implemented properly, this amendment has the potential to use natural resources to increase the prosperity of society as written in Article 33 Paragraph 3 of the 1945 Constitution.

The statement can be supported by increasing the added value of the mining industry by conducting efficient downstreaming, which is converting processed raw materials into value-added products before being exported. This not only increases the activities of the mining industry, but also increases state revenue which has an effect on the prosperity of the community. Legal certainty and transparency also plays an important role in maximizing the potential that the Minerba Law can bring. It can invite foreign investors and domestic investors to carry out economic activities in the mining sector without having to worry about the laws that operate in the field. In addition, the granting of IUP to religious organizations and state universities has a significant impact if done properly. Funding from mining can be used to maximize social activities and development in research and technology which can be used to increase the optimization of the mining field. It could also give an overview of the benefits and prevent unpredictable malfunctions that could happen to the mining technologies and the environment. Furthermore, conducting mining that might damage the environment can also be prevented if the mining environment is properly reclaimed. Not only can it be restored to its original state, but it can also become a new and better environment as well. Doing reclamation planning well eliminates the potential for environmental damage and the effects on local communities in the mining area so that mining can be carried out sustainably.

4.2 Conclusion

The research on Indonesia's Mineral and Coal Mining Law (UU Minerba) reveals a complex connection between economic development,

environmental sustainability, and social equity. Initially coming into effect 2009 and revised in 2020, UU Minerba aims to optimize the management of the country's rich mineral and coal resources while ensuring that the benefits of these resources are distributed equally among the Indonesian people. The law sets rules that define what mining companies can and cannot do, how they get permission to operate, and how the government watches over their activities.

The implementation of the Mining Law has caused big worries about its effects on the environment and society. As mining grows, it's causing a lot of harm to nature, like cutting down forests, losing different species, and polluting water. This is often made worse by poor methods of restoring land after mining. On the social side, people are unhappy because they think the law ignores the rights of local communities, leading to fights over who owns the land and how resources are managed. The centralization of mining governance has further limited local autonomy and community participation, raising questions about the fairness and inclusivity of decision-making processes.

Compared to other countries, mining rules often do a better job of protecting the environment and public health. This shows that Indonesia's UU Minerba needs to improve in these areas. The research emphasizes the need for stronger environmental protections, ensuring companies restore land properly after mining, and giving communities affected by mining a say in how it's managed.

GLOSSARY

- 1. Minerba** – “Mineral Batubara” Refers to mineral and coal mining activities.
- 2. International Arbitration Institution** – An organization that resolves international disputes through arbitration.
- 3. Accountability** – The responsibility to be transparent and answerable for actions and decisions.
- 4. Extraction** – The process of extracting natural resources, such as minerals and coal, from the earth.
- 5. Reclamation and Post-Mining Rehabilitation** – The process of restoring former mining areas to a usable or natural state, including reforestation and waste management.
- 6. Non-Governmental Organizations (NGOs)** – Independent organizations that advocate for social, environmental, and human rights issues.
- 7. Exploitation** – The utilization of natural resources for economic purposes, which may impact the environment and society.
- 8. National Industry** – The industrial sector within a country that contributes to economic growth, including the mining and energy industries.
- 9. Constitutional Foundation** – The legal basis derived from a country's constitution for the creation of laws and policies.
- 10. Economic Democracy** – A system that promotes the equitable distribution of wealth and public participation in resource management.
- 11. Mining Business License (IUP)** – A permit issued to conduct exploration and exploitation of mineral and coal resources.
- 12. Criminal Offenses** – Violations of criminal law, such as illegal mining or environmental damage.
- 13. Philosophy of Fairness** – The principle of ensuring fairness in the management and distribution of resources.
- 14. Ecological Sustainability** – Development that maintains environmental balance to be enjoyed by future generations.
- 15. Deforestation** – The removal or destruction of forests, often due to industrial activities.

GLOSSARY

16. Degradation – The decline in environmental quality caused by human activities, such as pollution from mining.

17. Reclamation – The process of restoring land after mining to a natural or usable state.

18. Local Autonomy – The right of local governments to regulate and manage resources within their jurisdiction according to applicable laws.

19. Economic Development – The process of improving economic conditions through industrial growth, infrastructure development, and human resource advancement.

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