

Legal Analysis Towards Mining in North Sulawesi Post the Implementation of Law Number 3 Year 2020

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ABSTRACT

The issuance of Law No. 3 of 2020 as an amendment to Law No. 4 of 2009 concerning Mineral and Coal Mining, has changed the supervisory mechanism for the implementation of mineral and coal mining in the regions. This study aimed at analyzing the legal mining exploration in the regions associated with the principle of decentralization based on regional autonomy. The method used in this study is empirical juridical, and the results obtained illustrate that the issuance of the new mineral and coal law will cause a minimum role for local governments, both provincial, district and/or city in monitoring mining in the regions, especially in terms of mining exploration. It is because the monitoring system for mining exploration becomes centralized and effects on reducing regional revenue potential.

Keywords: Mining, local government, supervision, regional autonomy.

INTRODUCTION

In Indonesia, the management of the economy is arranged based on the provisions of article 33 of the 1945 Constitution. In paragraph 2 of article 33, it emphasizes on the production branches which are important and control the livelihood of the people are controlled by the state. In addition, among the production branches that have a significant influence on state revenue are the mining and energy sectors. They have long been the prima donna of the state in gaining revenue to support the development process. Mining management has experienced ups and downs in line with government policies. In the New Order era, it was considered as very centered on the management carried out by the central government, thus it ignored the interests of the area where the exploration of natural resources was carried out. Further, after the 1998 reform, this policy changed with the issuance of Law No. 4 of 2009 concerning Mineral and Coal Mining which gave the authority to local governments to regulate their own mining processes in the regions. This provision was issued, in line with the provision of autonomy for local governments to run local government through decentralization in accordance with Law no. 32 of 2004 which was subsequently amended by the provisions of Law no. 23 of 2014. It provides broad authority for local governments to manage their regional interests, including the mining sector.

Indonesia is as a potential country with strong economic grows as the largest in the Southeast Asian region. It has put Indonesia in a good position in anticipating the rapid development of the world economy.

Breuer (2018) emphasized that the Gross Domestic Product which is in the range of USD 1 trillion has placed Indonesia as a country in the sixteenth world economic power, which allows Indonesia to highlight its role in global economic policies both in the ASEAN and the G20 forum.

Moreover, Al Syahrin (2018) added that the geopolitical and geostrategic position of the Indonesian state which is in the equatorial region and is located between the Australian and the Asian continent has facilitated economic flows. In addition, the position of the Indonesia which is flanked by two oceans, the Pacific and the Indian Ocean, has made Indonesia as a connection of the Asian region both in the south, east and southeast of the Asian continent.

In the last decade, Indonesia government have adapted their economic policies to the relevant economy principles theory especially in terms of economic growth. The dependence on the export commodities which became the mainstay has been reduced in value through government policies by increasing the implementation of the manufacturing industry. Besides, economic growth is absolutely necessary in the context of managing a country. In Indonesia, it has become one of the bases for assessing the success of government, including other interrelated aspects such as political, democratic and socio-cultural aspects in society.

To increase the economic growth, one of the policies is that the government conducted the opening of investment for strategic sectors, both in the form of foreign and domestic investment. They are carried out either directly or indirectly through the formation of the Investment Coordinating Board in Presidential Decree number: 183 of 1998 as well as the formation of Law number 25 of 2007 concerning Investment plus Presidential Decree number 27 of 2009 which regulates One Stop Integrated Services. They have completed the government efforts in improving the flow of investment licensing in various economic sectors in order to facilitate the direct and indirect investment business that were carried out.

In the mineral and coal mining sector, the government has issued law number 3 of 2020 which was approved by the parliament on May 12, 2020. It regulates amendments to law number 4 of 2009 concerning mineral and coal mining, then referred to as the Minerba (mineral and coal mining) Law. The main objective of it is to re-regulation of provisions in accelerating and facilitating the implementation of investment in this sector. This was then offset by the issuance of Law No. 11 of 2020 which concerns on Job Creation. It supports the policy of facilitating investment of several clusters licensing. A'la and Supriyadi (2020) emphasized the urgency of the job creation law as one of the solutions in the investment sector. It is because Indonesia's position as both law and welfare state.

Furthermore, as the executor of government authorities based on the principle of autonomy, and to increase revenue for the regions, local governments are required to open access to various sectors which support investment to enter in their regions, including the tourism, trade and mining sector.

In North Sulawesi, there are approximately 46 Mining Business Permits referred to as IUPs plus 6 clean and clear Contract of Work companies which are still operating in the area. There are 1045 business units that operate by absorbing a large workforce (BPS, 2015). They have assisted local governments in increasing revenue from profit sharing funds transferred by the central government obtained from exploration funds and royalties that have been given by the IUP holder to the government. With the new provisions, it will change the mechanism that has been running and supervised by the local government.

Unfortunately, there are several provisions that are considered problematic in the Minerba Law including: 1). Violation of the principle of decentralization in regional autonomy which was the mandate of the 1998 reform. It is returning back the authority for mineral and coal mining to the central government. It reflects on the revocation of articles 4, 7, and 8 of Law Number 4 of 2009 which regulates the control of mineral and coal mining operations; 2). The abolition of reporting obligations to IUP providers/government in terms of exploration and business feasibility studies as a result of the abolition of the provisions of article 43 of the law. It effects on the weak government supervision of mining implementation and decreases potential state revenues from the mining sector; 3). Elimination of royalties for every mineral that is mined, which gives negative effects on state revenues from the mining sector as the consequence of the abolition of article 45 of

Law Number 4 of 2009. In principle, the withdrawal of the authority of an institution is a common thing, as long as it is carried out in accordance with applicable laws and regulations. In this case, the local government's authority in terms of managing mineral and coal resources in the region is obtained through the attribution authority granted by the Law through the Mineral and Coal Mining Law, as well as the regional government law in accordance with the rules because it was made by the parliament. In this regard, Miriam Budiardjo in (Budiardjo, 2008, p. 64) underlines that those who have the authority have the right to issue orders and make rules and are entitled to obtain compliance with these rules. However, the implementation of the new provisions should not contrast with the spirit of regional autonomy which is the reference in state management through the current reforms that have been rolled out since 1998.

The phenomenon above caused the spirit of regional government decreased and regional income reduced. Principally, the delegation of authority of a big country is necessary to maximize the role of regional government in carrying out programs that support economic level of society. It can be achieved when regional government delegate representatives to the central government in particular to the mining sector. In the provisions of article 1 number 23 of law number 30 of 2014 concerning government administration, it is stated that delegation is the delegation of authority from higher government agencies and/or officials to lower government agencies and/or officials with full responsibility and accountability to the recipient of the delegation. Based on these provisions, there will be efficiency in terms of mining management in the regions with the spirit of regional autonomy.

Previous studies that discuss mining in relation to regional autonomy can be found in Haris (2015) which focuses more on the issue of discretion given by local governments in terms of granting mining permits in areas that are highlighted from the aspect of government administration. Similarly, Isnaeni (2018) indicates a change in the authority of decentralization in the mining sector from the district level to the provincial level based on the amendment of law number 32 of 2004 concerning regional government to law number 23 of 2014. Furthermore, Senduk (2016) highlights the existence of district/city local governments in terms of mineral and coal mining in relation to the implementation of good governance.

This study highlights the enactment of the latest law number 3 of 2020 concerning mineral and coal mining (minerba) which revokes the authority of local governments both provincial and district/city in terms of monitoring mining management in the regions. This study is important to be conducted in order to observe the legal consequences caused by the abolition of articles 4, 7, and 8 of minerba law to the newest one. The effects can be seen through the decreasing of local government's role in monitoring deviated behaviors performed by mining operators in the region, decreasing potential regional revenue from exploration fees which are omitted in the new mineral and coal law, and the imposition of a 0% royalty rate for special IUPs in accordance with the provisions of the Job Creation Law.

This study aims at analyzing those three problems from a legal point of view with an emphasis on the principles of regional autonomy and efforts to supervise the implementation of the mining process, and efforts to maximize the potential of regional income for the welfare of the society in the region.

RESEARCH METHODS

This study employs juridical empirical method to explore the research problems emphasizing on the implementation of constitution and legal material as a primary sources. While for the secondary sources, books, journals and other legal materials are used. The data is analyzed by elaborating the theories with the empirical data about mining in regional government of North Sulawesi. The data are obtained from regional energy and mineral resources department of North Sulawesi, central bureau of statistics of North Sulawesi, and the ministry of finance, which were taken over a period of two months from December 2020 to January 2021. The data were then analyzed using a qualitative approach and concluded in descriptive form.

RESULTS AND DISCUSSION

In the frame of a modern state, Indonesia needs principles that philosophically govern the economy of a country. In the theory of economic law, there are principles held by a democratic country to carry out its economic policies towards the welfare of the people. The principles of economic growth, social balance, and sustainability have become absolute necessity in managing the economy of a country. Vaut (2013) views the perspective of social democracy, the three principles of economic management in the form of economic growth, social balance, and sustainability, are absolutely necessary and enforced simultaneously in a state economic policy. It is because the implementation of the three principles can stimulate quality and maintained economic growth that is oriented towards the welfare.

In addition, Muhlizi (2017) emphasized that increasing Indonesia's economic development is one of the processes carried out continuously in order to achieve the welfare and prosperity of the people. As an integral part of national development, this goal is reflected in improving the implementation of the state's economy which is accompanied by improving the quality of life of its citizens as stated in article 33 of the 1945 Constitution.

In this regard, to improve the welfare of citizens in terms of the national economy, the state has been given a delegation of authority to local governments through the regional autonomy mechanism which became one of the spirits of reform in 1998 by issuing a regulation on regional autonomy in the form of a law number 23 of 2014 concerning Amendments to Law Number 32 of 2004 concerning Regional Government, as well as Law Number 33 of 2004 concerning Financial Balance between the Central Government and Regional Governments.

In that regulation, the authority and power of the central government which is delegated to the regional government includes the power to prepare and manage the Regional Revenue and Expenditure Budget as referred as APBD including: 1). Regional fiscal management through taxes and levies collection, 2). Transfer funds Management, and 3) other legitimate revenues management as a source of Regional Original Income or PAD

On the other hand, the government through its policies has issued regulations in the field of state finance. They are Law No. 17 of 2003 concerning State Finance, Law No. 1 of 2004 concerning State Treasury, and Law No. 15 of 2004 concerning Audit Management and Accountability of state finances. They underlined the principles of state financial management that have to be managed properly. As a result, these various regulations help local governments synergize with the central government to manage state finances well.

Karianga (2017) emphasizes the ability of regions to manage and maximize local revenue sources (income) by increasing natural resource potential is one of the important indicators to be the success of regional autonomy. The existence of central to regional transfer funds in the APBD is considered as a supplement. Thus, capabilities in the field of Human Resources (HR) need to improve to complete the perfection of regional financial management. Meanwhile, according to (Habibi, 2016) there are aspects that affect the implementation of decentralization in regional autonomy, such as managerial aspects, organizational Human Resources, bureaucratic culture, and local political aspect. These two capabilities must be managed optimally in terms of increasing regional income in the context of regional development.

One of the sectors managed by local government in order to maximize regional income is the mining sector. It has become one of the *prima donnas* of local government as an effort to improve people's welfare because of the large strategic effect that the mining sector has on the potential for regional income. It then encourages economic growth in the region. In line with this, the government has issued a new Mining Law which replaces the old one.

Mining in North Sulawesi

North Sulawesi is one of the six provinces that is located on the island of Sulawesi, its position in the northern part, and in front of the Pacific Ocean and directly adjacent to the Philippines and other countries in the Pacific region. Such location has become a strategic gateway for businesses related to the outside world, including trade, mining, tourism, etc. The structure of districts and cities covering the North Sulawesi region can be seen in table 1.

Table 1. The Structure of Districts and Cities Covering the North Sulawesi Region

Number	District / City	Capital City	Total of Subdistrict	Total of Dorp	Total of Village
1	2	3	4	5	6
1	Bolaang Mongondow	Lolak	15	200	2
2	Minahasa	Tondano	25	227	43
3	Kepulauan Sangihe	Tahuna	15	145	22
4	Kepulauan Talaud	Melonguane	19	142	11
5	Minahasa Selatan	Amurang	17	167	10
6	Minahasa Utara	Aermadidi	10	126	6
7	Bolaang Mongondow	Boroko	6	106	1
8	Utara	Ondong Siau	10	83	10
9	Kepulauan Sitaro	Ratahan	12	135	9
10	Minahasa Tenggara	Bolang Uki	5	81	-
11	Bolaang Mongondow	Tutuyan	5	81	-
12	Selatan	Manado	11	-	87
13	Bolaang Mongondow	Bitung	8	-	69
14	Timur	Tomohon	5	-	44
15	Manado	Kotamobagu	4	15	18
	Bitung				
	Tomohon				
	Kotamobagu				
	North Sulawesi	Manado	167	1508	332

Source: Centre of Statistics Agency 2015

Furthermore, North Sulawesi with an area of 1,527,216 hectares, and a mining area covering 517,825 hectares which is 33%. This has made this sector very productive for exploration and exploitation. Thus, it helps the process of increasing the income and welfare of the people of North Sulawesi in the future (Adm, 2013).

Mining in North Sulawesi has become one of the strategic sectors in fulfilling the increase in regional income. This is considering the geographical location of the province of North Sulawesi which contains a lot of useful minerals and encourages the government's efforts to improve the economic. The mineral reserves in this province can be seen in table 2.

Table 2. The Mineral Reserves in North Sulawesi

Number.	Types of Mineral	Supply	Usage
1	2	3	4
1	Gold	80.553.670 Ton	Jewelry, investment and
2	Crude oil	638.400.000 Barel	aviation industry
3	Silver	39. 876.902 Ton	Fuel
4	Primary Iron (Fe)	18.427.280 Ton	Jewelry and industry
5	Iron Sand (Fe&Titan	173.972.828 Ton	steel industry
6	Plaster)	565.592 Ton	Industry
7	Sulvur	8.828.000 Ton	Pharmaceutical drugs,
8	Kaolin	20.000 Ton	industry, fertilizer
9	Toseki	1.068.648.750 Ton	Cement raw material
10	Quartz sand	19.124.647.262 m3	Industry
11	Limestand	6.656.000.000 m3	Industry
12	Granite	267.593.083 m3	Cement raw material
13	Clay	118.215.000 m3	Industry
14	Pumice	12.528.275 Ha	Industry
15	Stone dan Sirtu	188.270.000 m3	Industry
16	Tras	144.199.000 m3	Building material
17	Andesite	104.000 m3	Building material
18	Bentonite	21.696.925 m3	Building material
19	Obsidian	27.583.900 m3	Drilling mud
	Volcanic Sand		Building material
			Building material

Source: Centre of Statistics Agency 2015

Meanwhile, the budget allocation for North Sulawesi obtained from profit sharing funds transferred by the central government in 2021 can be seen in table 3.

Table 3 explains that the mineral and coal mining sector in North Sulawesi received 36% of the budget allocation of the total 108 billion revenue-sharing allocations transferred by the central government to the province. The availability of these funds is very helpful to improve the welfare of the people of North Sulawesi from the Regional Revenue and Expenditure Budget (APBD) which can lift the economic life of the community where the mine is located. Also, it is associated with the labor sector, regional infrastructure development, and optimizing the SMEs around the mining exploration area.

Table 3. The Budget Allocation for North Sulawesi

Number	Profit Sharing	Budget Allocation	Percentage
1	2	3	4
1.	A. Tax.		
	1. Income Tax	57.460.224	53 %
	2. Land and Building Tax	8.065.592	7,5 %
	3. Tobacco Excise	-	
	B. Natural resources		
	1. Petroleum and Natural Gas	-	
	2. Mineral and Coal Mining	38.993.011	36 %
	3. Forestry	628.050	0,5 %
	4. Geothermal	3.816.264	3 %
	Total	108.993.011	100 %

Source: Centre of Statistics Agency 2015

Decentralization in Mining Business Permits /IUP.

Isnaeni (2018) elucidates that the state's attributive authority to natural wealth is based on the provisions of article 33 section 3 of the 1945 Constitution of the Republic of Indonesia and article 2 section 2 of the main agrarian law which is delegated to the central government as a state administration organization. Then, it can be delegated to local governments and customary law communities in accordance with statutory provisions. This kind of delegation is called decentralization.

Decentralization, based on the provisions of article 1 number 8 of law number 23 of 2014 as amended to law number 9 of 2015 concerning Regional Government is the transfer of government affairs by the central government to autonomous regions. In addition, Elvalina (2016) argues that the implementation of the regional autonomy policy in principle concerns the transfer of power/authority along with resources from the central government to the regions. This authority is comprehensive unless otherwise stipulated by the law. The authority that is not given to local governments, as stipulated in Article 10 of Law Number 23 of 2014 concerning Regional Governments. This includes Foreign policy, defense, security, judiciary, national monetary and fiscal affairs, and religion.

In the historical development of natural wealth management, especially the empowerment of mineral and coal mining after the reform, the government has issued regulations related to mining including law number 4 of 2009 which was

later amended by the provisions of law number 3 of 2020 concerning mineral and coal mining. It contains removing the provisions of Articles 4, 7 and 8 of Law No. 4 of 2009 which shifts the authority to issue permits from local governments, in this case the provincial government to the central government.

Philipus M. Hadjon quoting the opinion of N. M. Spelt and Tenge in Haris (2015) argues that permission is an approval from the authorities based on laws or government regulations in certain circumstances. In Article 1 point 7 of Law number 4 of 2009 a mining business permit, referred to as an IUP, is a permit to carry out a mining business which is all of the stages of activities in the context of mineral or coal management and exploitation includes general investigation, exploration, feasibility studies, construction, mining, management and or refining or development and or utilization, transportation and sales, as well as post-production activities of mining.

The abolition of the authority of local governments in terms of issuing mining permits will slow down the process of improvement of community welfare through a decentralized system since it aims at accelerating the realization of people's welfare. The convenience of bureaucratic services in the regions that require fast and comprehensive services without waiting for justification from the central government will ultimately have a positive impact on regional and national economic performance in general.

Simandjuntak (2016) elucidates that offering autonomy to regions is intended to facilitate community welfare. It is by improving services and empowering the community so that they increase competitiveness based on the principles of justice, democracy and equity within the framework of the Unitary State of the Republic of Indonesia. Improving economic performance through a decentralization system with the ease of investing, especially in the mineral and coal mining sector, will create a multiplier effect on other sectors such as absorption of labor, increasing remuneration for production factors in the form of land rent, interest, and wages that can lead to other interrelated industries that ultimately provide positive values for both regional economic development and increasing the economic level of local communities. Moreover, it lets business actors focus their efforts on the regions and will deal directly with local governments, so that regional economic performance improved.

License for decentralization is one of the economic pillars and an important part of the government's policy that is in line with the need to regulate investment. Licensing is always related to supervision towards its object. Wijoyo in Lestari and Djanggih (2019) states that the purpose of the licensing to control community activities by influencing the community to follow the established method to achieve certain goals. Supervision on the implementation of mineral and coal mining includes mining license givers, mining actors, and mining activities.

The abolition of articles 4, 7 and 8 of law number 9 of 2009 has effected on the inconsistency of the application of decentralization principle in law number 23

of 2014 which was amended by law number 9 of 2019 concerning regional government.

Supervision in Mineral and Coal Mining

Supervision on mineral and coal mining operations in the regions probably cause a tug between local and central government's policies. Firdaus in (Firdaus et al., 2016, p. 2) emphasizes that decentralization has caused tug-of-war between local governments, especially between provincial and district/city governments.

In addition, there is often a conflict of interest between the provincial government and district/city governments in terms of the exploration of regional natural resources. This is partly because the provisions concerning the authority to issue Mining Business Permits (IUP), hereinafter referred to as IUPs, have been amended several times. Law number 4 of 2009 gives the authority to issue community mining permits for mineral and metal communities, coal, non-metallic minerals and rocks in community's mining areas to regency governments. Furthermore, in Law Number 23 of 2014 the authority was renewed by giving the authority to the provincial government.

Principally, this supervision has been regulated in the Minister of Energy and Mineral Resources Regulation number 26 of 2018. In this provision, it is explained that the authority to supervise mining in the regions is still carried out by the Governor based on the provisions of Article 44 paragraph 2. The regulation includes issuance of mining business permits and the implementation of guidance and supervision its holders. Furthermore, in the provisions of article 45 paragraph 1, it is explained that the authority of the governor to implement an effective mining engineering principles which are carried out by mining inspectors. The principles include a). evaluation of periodic reports and special reports; b) Periodic inspection or at any time if necessary; c). Assessment of the successful implementation of the program. These three principles are supervised inspectors by means of inspection, investigation, and testing. In the latest development, with the issuance of the new Minerba Law, the authority is then withdrawn by the central government which causes the potential accumulation of duties and responsibilities of the central government in terms of supervising the implementation of mineral and coal mining. However, it results inefficient and less productive mining supervision in the regions due to the lack amount of human resources at the central level to carry out supervision.

Furthermore, with the abolition of the old provisions that are Article 43 of the Minerba Law, it has triggered opportunities for sporadic exploration practices which have bad impacts on environmental aspects because there is not a supervision from the local government regarding the results obtained and minerals are excavated and lifted by the holders. In fact, the provisions of article 142 number (1) contains Governors and regents/mayors are required to report mining businesses in their respective territories each at least once every 6 months to the minister. Then, the provisions of Article 143 of the Minerba Law explains that the Regent/Mayor

conducts guidance and supervision of people's mining businesses. These two provisions exactly give rights to the government to supervise the mining and prevent the unexpected results during the mining process.

The causes of the abolition of the old provisions of minerba are that the bloom of corruption cases that were revealed relating to the granting of mining permits by local governments which indicated corrupt practices. Arifin and Irsan (2019) state that licensing in Indonesian still has a dilemma in the form of abuse of authority by regional heads along with bureaucratic ranks such as nepotism granting mining permits, transferring land functions, etc. In addition to this problem, Redi (2016) verified that there were 77% of the people who experienced an increase in welfare due to mining practices without permits in addition to 22% who experienced stagnant income and 2% decreased, all of which were carried out in smallholder mining.

Those phenomenon above are regarded as the cause of the abolition of authority of local governments, both district/city governments and provincial governments and returning their authority to the central government through the new mineral and coal law. However, the abolition effects on juridical implications for the implementation of mineral and coal mining exploration in the regions.

Senduk (2016) states that there are three juridical implications of the absence of local government authority in the issuance of Mining Business Permits. First, there is an additional burden on the regional government, in this case the district/city government in overcoming the adverse impacts of mineral and coal mining exploration in their area. Second, mineral and coal mining exploration has become passive, and is not in line with the principle of decentralization according to the principle of autonomy. Third, the occurrence of difficulties for local governments to take precautions in terms of supervising the implementation of mining exploration in the region. It gave the lack of authority for region.

Another implication of this abolition was the position of the local government very weak in terms of supervising the implementation of mineral and coal mining in their area. As a result, if problems occur in the implementation of the mining, the local government will lose its legitimacy to resolve the mining problem. And then, it effects on the completion process that taking a long time because we have to wait for the authority from the central government to solve it the problem occurred.

In addition, regional taxes and levies still include in the authority of region, to determine, collect and use regional taxes on non-metallic minerals and rocks. Thus, it is potential to trigger a conflict of norms between the center and region. Further, the local government loses its authority in terms of fostering and supervising the implementation of mining processes in the regions

Reduction of regional income due to the elimination of exploration fees and royalties

Regional income is all components of income obtained by the region to pay things related with the sustainability of local government administration. In the provisions of Article 285 paragraph 1 of Law number 23 of 2014 concerning Regional Government, and with link in Article 21 paragraph 1 of Government Regulation number 58 of 2005. It is also in conjunction with Article 26 paragraph 1 of Regulation of the Minister of Home Affairs number 13 of 2006 concerning Guidelines for Regional Financial Management. It is stated that regional income as a source of regional income includes Regional Original Income, transfer income, and other legitimate regional income as a source of regional income and finance. In this provision, it is also emphasized that Regional Original Revenue includes regional taxes, regional levies, results of separated regional wealth management, as well as other legitimate regional revenues. Besides, it is also explained that transfer income includes central government transfers such as balancing funds, special autonomy funds, privilege funds, and village funds. Then, transfers between regions are revenue sharing and financial assistance.

Further, the provisions regarding regional taxes are regulated in law number 28 of 2009 that concerns on regional taxes and regional levies. It explains that regional taxes are mandatory regional contributions owed by individuals or entities that are coercive under the law, with no direct compensation. Also, it used for regional needs for the greatest prosperity of the people. Meanwhile, levies are local levies as payment for services or granting certain permits specifically for personal or corporate interests

In the provisions of Article 289 paragraph 1 of Law Number 23 of 2014 concerning Regional Government, it is stated that the Revenue Sharing Fund comes from taxes, excise and natural resources. Next, in paragraph 4 it states that revenues from coal mining come from fixed fees (land rent), exploration fees, as well as exploitation fees (royalty) generated from the area concerned.

The abolition of the provisions of article 45 of the old Minerba Law has reduced the potential sources of state revenue based on Government Regulation No. 81 of 2019 concerning Types and Tariffs of Non-Tax State Revenues applies to the Ministry of Energy and Resources. In this regulation, it is stipulated that royalties for holders of Mining Business Permits may vary starting from 3% -7% for open pit mines, while for mines originating underground the royalty ranges from 2% to 6 %.

In the latest development, with the issuance of the new provisions of the regulation, it will result in a decrease in the potential for regional revenue from the Revenue Sharing Fund originating from the aspect of imposing the exploration fee and royalties. It extremely is the effect of the Law No. 11 of 2020 concerning Job Creation where in the provisions of Article 39, the imposition of 0% royalty for entrepreneurs who can increase the added value of coal mining.

CONCLUSION

The issuance of the new Minerba Law has reduced the spirit of regional autonomy in mineral and coal management in North Sulawesi which has resulted in the implementation of supervision over the mineral and coal mining exploration, a reduction in the potential for regional income from funds, and profit sharing for the development of the region.

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REFERENCES

- A'la, M. A., & Supriyadi, A. P. (2020). Omnibus Law Sebagai Reformasi Hukum Investasi di Indonesia Berdasarkan Asas Hirarki Peraturan Perundang-Undangan. *Al-Huquq: Journal of Indonesian Islamic Economic Law*, 2(2), 133–159.
- Adm. (2013). Pertambangan Kuasai 512.823 Hektar Wilayah Sulut. Retrieved from Kompas.com website: <https://tekno.kompas.com/read/2013/05/27/22255196/Pertambangan.Kuasai.512.823.Hektar.Wilayah.Sulut>
- Al Syahrin, M. N. (2018). Kebijakan Poros Maritim Jokowi dan Sinergitas Strategi Ekonomi dan Keamanan Laut Indonesia. *Indonesian Perspective*, 3(1), 1–17.
- Arifin, Z., & Irsan, I. (2019). Korupsi Perizinan Dalam Perjalanan Otonomi Daerah Di Indonesia. *Lex Librum: Jurnal Ilmu Hukum*, 5(2), 887–896.
- BPS, S. (2015). Beranda. Retrieved from <https://sulut.bps.go.id>
- Breuer, M. L. E., Guajardo, M. J., & Kinda, M. T. (2018). *Realizing Indonesia's economic potential*. International Monetary Fund.
- Elvalina, D., Firdaus, E., & Edorita, W. (2016). *Kewenangan Pemerintah Daerah Provinsi dalam Menerbitkan Izin Pertambangan Berdasarkan Undang-undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah*. Riau University.
- Habibi, M. M. (2016). Analisis Pelaksanaan Desentralisasi Dalam Otonomi Daerah Kota/Kabupaten. *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan*, 28(2).
- Haris, O. K. (2015). Good governance (Tata kelola pemerintahan yang baik) dalam pemberian izin oleh pemerintah daerah di bidang pertambangan. *Yuridika*, 30(1), 58–83.
- Isnaeni, D. (2018). Implikasi Yuridis Kewenangan Pemerintah Daerah Dalam Pemberian Ijin Usaha Pertambangan Menurut Undang-Undang Nomor 23 Tahun 2014. *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang*, 1(1), 35–46.

- Karianga, H. (2017). *Carut-Marut Pengelolaan Keuangan Daerah di Era Otonomi Daerah*. Prenada Media.
- Lestari, S. E., & Djanggih, H. (2019). Urgensi hukum perizinan dan penegakannya sebagai sarana pencegahan pencemaran lingkungan hidup. *Masalah-Masalah Hukum*, 48(2), 147–163.
- Muhlizi, A. F. (2017). Penataan regulasi dalam mendukung pembangunan ekonomi nasional. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 6(3), 349–368.
- Redi, A. (2016). Dilema Penegakan Hukum Penambangan Mineral Dan Batubara Tanpa Izin Pada Pertambangan Skala Kecil. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 5(3), 399–420.
- Senduk, M. F. (2016). Eksistensi Pemerintah Daerah Dalam Pengelolaan Pertambangan Mineral Dan Batubara Dalam Mencapai Good Governance. *Kumpulan Jurnal Mahasiswa Fakultas Hukum*.
- Simandjuntak, R. (2016). Sistem Desentralisasi Dalam Negara Kesatuan Republik Indonesia Perspektif Yuridis Konstitusional. *Journal de Jure*, 7(1), 57–67.
- Vaut, S. (2013). *Ekonomi dan sosial demokrasi* (Friedrich-). Kantor Perwakilan Indonesia.