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Recentralization of Mining Licensing Authority and Its Impact on Local Autonomy in Indonesia

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Abstract

The principle of decentralization is a constitutional mandate granting regional governments authority to administer governance and manage natural resources within their respective jurisdictions. This principle emerged as a corrective measure to the centralized governance model of the New Order regime, which had resulted in significant disparities in welfare between the central government and the regions. Law Number 4 of 2009 on Mineral and Coal Mining initially reinforced this decentralization by delegating the authority to issue Mining Business Permits (IUP) to local governments, thereby enhancing local community welfare in resource-rich regions. However, the enactment of Law Number 3 of 2020, which amended Law Number 4 of 2009, reversed this decentralization by reassigning such authority to the central government. This legislative shift represents a constitutional anomaly, contradicting the decentralization spirit embedded within the 1945 Constitution of the Republic of Indonesia. This study employs normative legal research methods using statutory and conceptual approaches to examine the division of authority between the central and regional governments in managing the mineral and coal mining sector. The findings reveal that the recentralization of IUP authority not only undermines regional autonomy but also adversely affects the development of resource-producing regions and hampers the realization of social justice as envisioned in the framework of a welfare state.

Keywords: *Central Government, Decentralization, Local Government, Mining Business Permits.*

A. INTRODUCTION

The state gives some authority to regulate it to each region within the framework of the Unitary State of the Republic of Indonesia (NKRI). Regulated based on Article 18 of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia): "The Unitary State of the Republic of Indonesia is divided into provincial regions and the provincial regions are divided into districts regulated by law. Provincial and Local governments districts and cities regulate and manage government affairs themselves according to the principles of autonomy and assistance duties". *(Fartini, 2022)* Conceptually, the term authority or authority is often equated with the Dutch term "bevoegheid". Based on Henc van Maarseveen's opinion as quoted by Philipus M Hadjon, the theory of authority used in public law consists of 3 (three) components: influence, legal basis, and legal conformity. *(Burlian, 2014)*.

The implementation of Local government is deemed necessary to place greater emphasis on equitable development and the economy in each region. The intended economic development is adjusted to the characteristics of each area, including natural resources (SDA) that can be managed. In the current era of globalization, economic activity is developing without limits, both on a Local, national, and international scale. National development is supported by Local development, which is basically an inseparable part of national development. By increasing the optimal utilization of local potential, implementing national development will help realize the community's welfare (Syawal, 2022).

This decentralization concept aims to smooth the wheels of government, bearing in mind that Indonesia is an archipelagic country and a pluralistic society, so that the central government will not be able to provide good governance, so that the central government will not be able to provide good governance. Therefore, the law regulates the distribution of authority to regulate and manage one's own household to increase the effectiveness and efficiency of government administration, including those related to mineral and coal mining. The meaning of the principle of decentralization for each expert can be classified into several things, including: a). Decentralization is the transfer of authority and power; b). Decentralization as the delegation of power and authority; c). Decentralization as division, handover, distribution, dispersion, and granting of power and authority; and d). Decentralization as a means of dividing and forming Local governments. (Gadjong, 2007).

Regarding the granting of permits for activities or businesses carried out by individuals, community groups, or companies, this cannot be separated from the supervision and authority of the government, both central and Local governments, as representatives of the state, in efforts to improve the welfare of its people. The philosophy in issuing permits and regulating technical procedures is to provide justice, legal certainty, and maximum benefits for the prosperity of the people. Mining activities must not be released without any regulations to ensure the "ground design" of natural resource management, which is controlled by the state for the prosperity of the people, with sustainable development principles and an environmental perspective. The state's position of absolute sovereignty over the wealth of mineral and coal resources is an instrument, while ensuring the greatest prosperity of the people is the ultimate goal of managing these mineral and coal resources. (Suryaningsi, 2017) Based on this, all mining management regulations must also have principles and objectives that refer to the "grand design" to provide direction on how mining is carried out correctly and adequately. According to Nimatul Huda, the relationship between the center and regions in a unitary state always involves a tug of war between interests, and there are clear efforts from the central government to maintain control over various government affairs. As a consequence of being a unitary state, the party holding authority relies on the central government. The authority given to regions is very limited; in practice, it can even be given and taken over again, as regulated in Article 18, paragraph (5) of the 1945 Constitution of the Republic of Indonesia. (Huda, 2012).

This study constitutes a recent scholarly effort that aims to explore and strengthen the role of local governments in enhancing the welfare of communities surrounding mining areas, within the framework of decentralized mining permit governance in Indonesia. The explicitly stated research objectives are: (1) to analyze the regulatory authority over mining licensing within the perspective of decentralization and regional autonomy; (2) to identify structural and normative obstacles in the implementation of such authority; and (3) to formulate a conceptual model for strengthening the capacity of regional governments in mining governance to promote the welfare of local communities. Several previous articles are relevant to the present research, although they focus on different aspects. First, Situmorang (Situmorang, 2023), in his article "Reconstruction of Criminal Sanctions in Mining Licensing Policy," highlights the weaknesses in Article 165 of Law No. 4/2009 on Mineral and Coal Mining, inadequate law enforcement, and the limited role of public participation in compliance oversight. While that study focuses on reconstructing sanction mechanisms within mining regulation, the current research emphasizes the broader impact of mining governance on local communities and the strategic role of subnational governments. Second, Kapugu (Kapugu, 2022), in her article "The Responsibility of Mining Companies for Environmental Restoration in North Sulawesi," examines corporate accountability for post-mining environmental rehabilitation, including reclamation activities and biodiversity conservation. While both studies engage with governance responsibilities in mining areas, Kapugu's work focuses on environmental recovery, whereas this study addresses community welfare as a central concern in mining policy reform. Third, Imran (Imran, 2021), in "The Application of Justice Principles in the Distribution of Governmental Affairs in the Energy and Mineral Resources Sector," critiques the imbalance between central and local authority and proposes the application of asymmetrical decentralization. Although sharing a concern for public welfare, the present research distinguishes itself by advancing a model of subnational empowerment to optimize community-centered mining governance. Based on the explanation in the introduction above, in this research, there are 2 (two) problem formulations which function as legal issues that will be discussed further in the study, namely: 1. Division of authority between the central government and Local governments in the concept of decentralization; and 2. The mineral and coal mining licensing authority is shared between the central government and local governments. This is used as a legal issue in this research because currently it still needs to be reviewed regarding the division of authority between the central government and local governments, especially in terms of granting mineral and coal mining permits, so that there is no overlap in interests and regulations between the two representative agencies of the country.

B. RESEARCH METHODS

This article is a legal research *(Hezron Sabar Rotua Tinambunan H. W., 2022; Hezron Sabar Rotua Tinambunan E. S., 2021)*, namely a process of discovering legal rules, legal principles, and legal doctrines to respond to the legal issues encountered. Legal research is carried out to produce arguments, theories, or new concepts(Sabar et al., 2025) as prescriptions for solving the problems encountered (Marzuki, 2005*)*. This article uses a legal research method with the starting point of the research, namely legal political analysis and its implications are the granting of authority to grant mineral and coal mining permits in the instrumentation of local autonomy, in essence the granting of authority to grant mineral and coal mining permits in the implementation of regional autonomy and future regulations for the granting of authority to grant mineral and coal mining permits based on regional autonomy and community welfare.

C. RESULTS AND DISCUSSION

Distribution of Authority Between Central Government and Local Government in the Concept of Decentralization

To prevent absolute power in a unitary state, it is necessary to limit power by dispersing it from the central government to local governments. Power transfer is carried out by delegating some of its authority to be regulated in local household affairs, so that autonomous regions will be formed to carry out some of the authority delegated from the central government. Implementing local autonomy in the context of strengthening a unitary state in the form of authority and supervision, with the authority delegated, supervision is needed over the implementation of local autonomy so that it does not depart from the concept of a unitary state and supports the realization of democratic ideals. This means that in a democratic country, local governments must have autonomy rights. Such a local government also perfects a characteristic of a democratic country, namely, freedom. Tocqueville, quoted by Rienow, stated that an independent government without the spirit of building Local government institutions is the same as not having the spirit of popular sovereignty, because there is no spirit of freedom (Jamil, 2022).

The relationship between the central government and local governments is contained in the provisions of Article 18, paragraph (5) of the 1945 Constitution of the Republic of Indonesia, which states that "Local governments exercise the broadest possible autonomy, except for government affairs which are determined by law to be the affairs of the central government." The aim of granting the broadest possible autonomy is to accelerate the realization of community welfare through improving services, empowerment, and community participation. According to Bagir Manan, who quoted Van der Pot's opinion, autonomous bodies in decentralization are divided into 2 two: Territorial Decentralization and Functional Decentralization. Territorial decentralization (locality) is the handover of power to regulate and manage one's own household (autonomy), and the regulatory boundaries in question are regions. In contrast, functional decentralization is the handover of power to regulate and manage specific functions. The regulatory limits in question are the type of function itself, such as land issues, education, environment, natural resources, etc. (Soedjito, 1990).

Since the political reform era, the rolling out of decentralization and local autonomy has changed the country's political power map. This condition also contributes to the development and dynamics of mineral and coal resource management, which was previously very centralized, relying more on the power of significant capital and neglecting social aspects and environmental protection. By granting political authority to locals, they have the right to carry out initiatives and manage their own households. In this form of political power, the local development process can be more easily implemented and can better represent the aspirations of the people in the local community. (Zulkarnain, 2004).

Decentralization used in Indonesia is the delegation of authority from the central government, which hands over its power to make decisions to local governments. The central government and local governments have a synergistic relationship. In making policies, the central government must pay attention to local wisdom, and vice versa. It is obligatory to pay attention to national interests when making local policies, whether in the form of local regulations or other policies. In this way, there will be a balance between national and local interests that is synergistic and still pays attention to conditions, characteristics, and local wisdom in implementing government in an integral and integrated manner, comprehensively. Regarding decentralization, as contained in Articles 18, 18A, and 18B of the 1945 Constitution of the Republic of Indonesia by Bagir Manan, the principles of decentralization are explained, namely:

1. The principle of state recognition and respect for the unity of indigenous communities and their traditional rights as long as they are still alive, and by the development of society and the principles of the Unitary State of the Republic of Indonesia;
2. The principle of regions regulating and managing their own government affairs according to the principles of autonomy and assigning tasks;

3. The principle of implementing the broadest possible autonomy;
4. The principle of recognition and respect for regional governments that are exceptional;
5. The principle of representative bodies being elected directly in general elections;
6. The principle of central and regional relations is being implemented in a harmonious and just manner;
7. The principle of the relationship of authority between the central and regional governments, taking into account the uniqueness and diversity of the regions;
8. The principle of financial relations, public services for the utilization of Natural Resources (SDA) and other resources between the central government and local governments is implemented fairly and in harmony based on the law; and
9. The principle of state recognition and respect for regional government units that are special or unique in nature (Manan, 2001).

Regarding the division of authority between the central and local governments, the fundamental problem is finance. Problems with financial relations between the central and Local governments have been a source of unrest in the regions. This is because local people feel the central government is mistreating them. Local wealth, including mineral and coal mining, has led to fairness in the distribution of financial resources between the central government and Local governments, causing an increase in the gap in economic growth between regions. (Jeddawi, 2005).

Finally, by reducing the fiscal imbalance between the central government and Local governments, through Law 1/2022, the Revenue Sharing Fund (DBH) was implemented, which is a transfer from the central government to Local governments which is allocated based on certain income in the APBN and specific performance which is distributed to the regions, as well as to other non-producing regions to overcome negative externalities and/or increase equality within one area. Profit Sharing Funds (DBH) are sourced from natural resources (SDA), minerals, and coal, as well as from fixed fees and production fees. Based on Article 116 paragraph (2) of Law 1/2022, it is regulated that the Production Sharing Fund (DBH) for mineral and coal natural resources sourced from Fixed Fees obtained from land and sea areas up to 4 (four) miles from the coastline, is set at the amount 80% (eighty percent) for regions is distributed to: a). The province concerned is 30% (thirty percent); and b). Producing Regency/City is 50% (fifty percent)—other details as regulated in Article 116 paragraph (4) of Law 1/2022. Production

Sharing Funds (DBH) for mineral and coal resources sourced from Production Contributions obtained from land and sea areas up to 4 (four) miles from the coastline are set at 80% (eighty percent) for regions, distributed to: a). The province concerned is 16% (sixteen percent); b). Producing Regency/City is 32% (thirty two percent); c). Other regencies/cities directly bordering the producing regencies/cities amount to 12% (twelve percent); d). Other regencies/cities in the province concerned amounted to 12% (twelve percent); and e). Processing districts/cities are 8% (eight percent). Even though it has been regulated in Law 1/2022 regarding financial relations between central and Local governments, in terms of implementation, it still gives rise to the following problems (Zastrawati, 2023):

1. Centralized financial arrangements. Law 1/2022 may have aspects that consolidate financial control at the central level. This can reduce Local financial flexibility and autonomy, contrary to the spirit of decentralization.
2. Cutting Fund Transfers. Law 1/2022 reduces the allocation of transfer funds to regions without adequate consideration, which could be detrimental to areas that previously depended on these funds to finance programs and projects.
3. Insufficient village funds. Law 1/2022 is inadequate in providing financial support to villages, which can hamper local development at the village level and harm regions with their own budget limitations.
4. Unclear division of authority. Law 1/2022 does not provide clear guidance regarding the division of authority between the center and regions regarding financial management, which can give rise to conflict and uncertainty in implementation.
5. Limited Local participation. Law 1/2022 may not provide sufficient space for regions to participate in decision-making regarding financial policies, which could reduce accountability and transparency.
6. Inequality in financial management. Law 1/2022 does not consider differences in economic and administrative capacity between regions, which can result in inequality in financial management.
7. Policy harmony. Law 1/2022 may not be in harmony with other policies supporting Local autonomy and decentralization, which could create obstacles to consistent implementation.
8. Inadequate supervision. Law 1/2022 does not provide an effective monitoring mechanism for budget use at the local level, which can increase the risk of corruption and misuse of funds.
9. Unclear financial balance. Law 1/2022 does not adequately address the economic balance between the central and Local governments, which can harm limited Local finances.
10. Limitations in budget adjustments. Law 1/2022 does not consider Local needs to adjust budgets to local dynamics, which can hamper responsiveness to changes in the situation.

Authority for Licensing for Mineral and Coal Mining in the Decentralization Mechanism

Based on Article 9 and Article 10 of Law Number 4 of 2009 on Minerals and Coal (UU 4/2009), it is stated that mining areas as part of the national spatial plan are the basis for mining activities determined by the government after coordinating with Local governments and consulting with the People's Representative Council of the Republic of Indonesia (DPR RI). Determination of mining areas is carried out in a transparent, participatory, and responsible manner, in an integrated manner taking into account the opinions of relevant government agencies, the community, and ecological, economic, and socio-cultural aspects, as well as being environmentally friendly, and taking into account Local aspirations. The government and Local governments must conduct mining investigations and research to prepare mining areas. These mining areas are then regulated in the nomenclature of Mining Business Areas (WUP), including radioactive mineral WUP, metallic mineral WUP, coal WUP, non-metallic mineral WUP, and/or rock WUP. As state representatives, the central and local governments should regulate natural resource management to provide maximum access to the people (Haryadi, 2018).

The issuance of Law 4/2009 strictly divided mining affairs between the central and local governments. It is stated in this law that local governments control minerals and coal under the state. Further regulations regarding the authority to manage mineral and coal mining given to provincial and district/city areas include investigations, research and inventory, granting Mining Business Permits (IUP) and People's Mining Permits (IPR), guidance, supervision and dispute resolution, then The latest is the issuance of Law Number 3 of 2020 on Amendments to Law 4/2009 on Mineral and Coal Mining (UU 3/2020). The central government's authority has again reduced the regulation of Local government authority over mineral and coal mining. After the promulgation of Law 3/2020, the granting of Mining Business Permits, previously under local governments' authority, was transferred to the central government's authority.

Article 4, paragraph (2) of Law 3/2020 explicitly confirms that control of minerals and coal, as referred to in paragraph (1), is carried out by the central government under the provisions of this law. Article 4, paragraph (2) of Law 3/2020 emphasizes that the authority to control mineral and coal mining is withdrawn from Local governments and transferred to the central government's authority. In addition, the deletion of Article 7 and Article 8 of Law 4/2009 further emphasizes that provincial and district/city governments do not have the authority to issue mining permits directly. This means that all policies governing mining permits after the issuance of this regulation remain centralized, meaning everything related to mining, namely the determination of mining authorization permits, work contracts, work agreements, coal mining operations, and others, especially community mining permits, granting permits. The authority of central government officials is the Minister of Energy and Mineral Resources (ESDM). Through Law 3/2020, Local governments only act as an extension of the central government in terms of delegation or transfer of authority as regulated in Article 35, paragraph (4) of Law 3/2020, as if Local governments have authority even though in reality they do not have independent authority as long as it is not interpreted. The granting or delegation of authority from the central government to the provincial government (Utami, 2023).

After the promulgation of Law 3/2020 and Law 11/2020, which have been amended through Law 6/2023, the Local government's authority to manage Mining Business Permits (IUP) was abolished and completely transferred regarding the issuance of permits to the central government. The centralization of this regulation is regulated in Article 5 and Article 6 of Law 3/2020, which stipulates that, in the national interest, the Central Government, after consultation with the People's Representative Council of the Republic of Indonesia (DPR RI), determines a national policy of prioritizing Minerals and Coal for domestic interests. The Central Government in managing minerals and coal has the authority to:

1. Establishing a national mineral and coal management plan;
2. Establishing national mineral and coal policies;

3. Establishing laws and regulations;
4. Establishing national standards, guidelines, and criteria;
5. Conducting mining investigations and research in all mining jurisdictions;
6. Establishing mining areas after being determined by the provincial government by its authority and consultation with the People's Representative Council of the Republic of Indonesia (DPR RI);
7. Establishing WIUP for metal minerals and WIUP for coal;
8. Establishing WIUP for non-metallic minerals and WIUP for rocks;
9. Establishing WIUPK;
10. Establishing WIUPK offerings on a priority basis;
11. Establishing business permits;
12. Conducting guidance and supervision of the implementation of mineral and coal mining business activities carried out by business permit holders;
13. Establishing production, marketing, use, and conservation policies;
14. Establishing policies for cooperation, partnerships, and community empowerment;
15. Managing and determining non-tax state revenues from mineral and coal mining business results;
16. Managing geological information, information on potential natural mineral and coal resources, and mining information;
17. Provide guidance and supervision of reclamation and post-mining;
18. Compiling a national-level balance sheet of mineral and coal resources;
19. Developing and increasing the added value of mining business activities;
20. Increasing the capacity of the central and local government apparatus in implementing mining business management;
21. Determining reference prices for metal minerals, certain types of non-metallic minerals, radioactive minerals, and coal;
22. Manage mining inspectors; and
23. Manage mining supervisory officials.

Furthermore, based on Article 350 paragraph (1) of Law Number 23 of 2014 on Local Government (UU 23/2014) states that Local heads are obliged to provide licensing services under the provisions of statutory regulations, but this article is amended through Part Three regarding government Local Article 350 paragraph (1) Law Number 6 of 2023 on Stipulation of Government Regulations instead of Law Number 2 of 2022 on Job Creation (UU Cipta Work) Becomes Law (UU 6/2023), stating that Local heads are obliged to provide business licensing services under the provisions of statutory regulations and norms, standards, procedures and criteria established by the central government. After protests occurred in various circles, the central government immediately issued a derivative regulation of Law 3/2020, namely

Presidential Regulation Number 55 of 2022 on Delegation of Granting Business Licensing in the Mineral and Coal Mining sector (Perpres 55/2022), which returned licensing authority to Local (provincial) governments, especially in non-metallic mineral and rock commodities. However, this authority is very limited and only applies to non-metallic mineral commodities and rocks. The authority of local governments in managing mines was strengthened through the Constitutional Court Decision Number 1/PUU-X/2012, in which it was stated that "The distribution of facultative government affairs must be based on the spirit of the constitution, which provides the broadest possible autonomy to local governments". (Baharudin Riqiey, 2022).

Very centralized policies have a very high risk, especially vulnerable to criminal acts of corruption, collusion, and nepotism (KKN), limited authority of Local governments, even though the region is the "host", so that there is a lack of involvement of Local governments in realizing Local autonomy in managing their own households. Government The central government is responsible for everything from licensing to supervision, guidance, enforcement, and management of the post-mining environment (reclamation), as well as guaranteeing the safety and health of miners. How can the central government manage all of these things? (Derita Prapti Rahayu, 2021). Centralized granting of mining permits brings various negative impacts, namely environmental damage and disputes between mining companies and communities, which are very vulnerable to occurring. Permits should be a controlling instrument in mining operations to align with the philosophical ideals mandated in Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The meaning contained therein is the principle of "state control rights" over natural resources and the mandate "to the greatest extent possible," great prosperity of the people." These two things must then be used to formulate various regulatory and stipulating policies (Haryati, 2019). Meanwhile, based on Law Number 22 of 1999 on Local Government (UU 22/1999) in conjunction with Law 23/2014 in conjunction with Law Number

25 of 1999 on Financial Balance between the Central and Local Governments (UU 25/1999) in conjunction with Law Number 1 of 2022 on Central and Local Financial Relations (UU 1/2022) in substance has re-expanded Local authority including confirmation that it is a source of Local income. However, implementing this Local authority often conflicts with higher regulations and clashes with the interests of society as a whole and national interests. Likewise, with financial balance, Local governments still view that the provisions in Law 1/2022 have not provided maximum contribution for regions in utilizing the potential of Natural Resources (SDA) contained in areas such as mineral and coal mining, thereby increasing income. Local Original (PAD) is the best choice according to Local perception. The distribution of authority between the central and local governments in Indonesia under the decentralization framework reflects ongoing tensions between constitutional ideals, sectoral policies, and human rights standards. Although the 1945 Constitution of the Republic of Indonesia mandates decentralization under Articles 18, 18A, and 18B, and mandates the state's control over natural resources for the greatest welfare of the people as stipulated in Article 33(3), the practical implementation, especially in the mineral and coal mining sector, reveals a contradictory trend toward recentralization. This is evident in the passage of Law No. 3 of 2020, which revoked the licensing authority from local governments and reallocated it to the central government, thereby diminishing local autonomy and weakening democratic participation. Theoretically, decentralization is grounded in the principle of subsidiarity and polycentric governance, which emphasize that decision-making should be as close to the people as possible and shared across multiple levels of authority to ensure responsiveness and accountability (Ostrom, 2010). However, Indonesia's policy trajectory deviates from this approach by recentralizing control over strategic natural resources, ignoring the local socio-environmental context, and failing to institutionalize adaptive governance mechanisms.

This centralization also raises concerns from a human rights perspective (Firmanda et. al., 2025). The right to a healthy environment is protected under Article 28H (1) of the 1945 Constitution and further supported by Law No. 39 of 1999 on Human Rights and Law No. 32 of 2009 on Environmental Protection. Yet, these legal protections are undermined by excluding local communities from decision-making processes in mining projects, violating procedural environmental rights such as access to information, public participation, and access to justice principles widely recognized in the Aarhus Convention. Moreover, the Indonesian government has supported the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), emphasizing the necessity of Free, Prior, and Informed Consent (FPIC) for activities affecting indigenous lands. However, field studies reveal a consistent failure to uphold these rights. For example, Amrianto, Ramdan, and Yusmi (Amrianto et al., 2022) have documented systematic human rights violations against mining-affected communities, including forced evictions and environmental degradation. The Wadas conflict in Central Java, where local resistance to andesite mining was met with repressive state action, further demonstrates the erosion of civil and environmental rights(Jamaludin, 2025).

In legal terms, the decentralization mandate has been weakened by statutory contradictions. The Constitutional Court's Decision No. 1/PUU-X/2012 affirms that the spirit of autonomy must be preserved in allocating government functions. Nevertheless, Law No. 3/2020 revokes subnational authority in licensing mineral and coal mining, reducing local governments to mere administrative extensions of central ministries. Concurrently, Law No. 1 of 2022 on fiscal decentralization, which introduces the Revenue Sharing Fund (DBH), has failed to ensure equitable benefit distribution for resource-producing regions. While the law stipulates that up to 80% of certain mining revenues should return to local governments, the complexity of allocation formulas and central control over fund disbursement often leads to fiscal injustice and regional disparities(Semuel Risal et al., 2020). These arrangements violate the constitutional principle of distributive justice as embedded in Article 28D (1) and exacerbate interregional inequality (Sugirman et al., 2025)

Empirical case studies further illustrate the practical consequences of this governance model. In Muara Enim Regency, South Sumatra, while people's mining has improved local incomes, it also causes serious environmental and labor safety concerns due to weak regulation and a lack of local oversight (Prabujaya et al., 2020). Similarly, the centralization of licensing has led to conflicts between companies and local communities, environmental damage, and limited accountability. These cases expose the fragility of centralized governance in managing localized, complex social-ecological systems. Contrastingly, comparative insights from the Philippines, where the Local Government Code mandates revenue sharing and community consultation in extractive activities, demonstrate that participatory governance yields more equitable and sustainable outcomes.(Kurniawan et al., 2022) In conclusion, Indonesia's decentralization is strong in theory but weak in practice, particularly in the context of natural resource governance. The current legal framework undermines local autonomy, contradicts constitutional jurisprudence, and falls short of international human rights obligations. (Rheina, 2024; Effendi et al., 2023) A rights-based approach to decentralization is urgently needed. This includes restoring subnational licensing authority, ensuring meaningful community participation, redesigning fiscal instruments for equity and transparency, and harmonizing domestic laws with international norms (Reza & Kamila, 2025). Only through these reforms can decentralization serve its intended purpose: to realize a democratic, just, and sustainable system of governance that protects both people and the environment.

D. CONCLUSION

The implementation of local autonomy within the framework of a unitary state should not be perceived as a pathway to disintegration, but rather as a mechanism for equalizing development opportunities across regions. Local autonomy embodies integrating decentralization principles with participatory democracy, representing a more advanced form of democratic governance. However, recent legislative changes, notably Law No. 3 of 2020 and Law No. 6 of 2023, have significantly diminished the role of local governments in the governance of mineral and coal resources by re-centralizing core licensing authority under the national government. This shift undermines the earlier spirit of decentralization affirmed in Law No. 4 of 2009 and Constitutional Court Decision No. 10/PUU-X/2012, emphasizing that delegating governmental functions must align with the constitutional principle of granting the broadest possible autonomy to local governments.

This article contributes to legal scholarship by critically examining the rollback of decentralization in Indonesia's mining governance and offering concrete proposals for legal reform. Policy recommendations include amending Law No. 3 of 2020 to restore substantive decision-making powers to local governments, reinforcing the constitutional mandate for regional autonomy, and establishing oversight mechanisms to ensure environmental sustainability and equitable local participation in managing natural resources.

REFERENCES

Amrianto, A. D., Ramdan, M., & Yusmi, T. (2022). The existence of communities' human rights in mining areas. *Domus Legalis Cogitatio*, *2*(1), 45–58. https://doi.org/https://doi.org/10.24002/dlc.v2i1.9824

Awang, E., Putra, M., Hamdani, F., & Muhammad, L. (2024). Alih Fungsi Lahan Hutan Lindung sebagai Tempat Pembuangan Limbah Pertambangan : Perspektif Fungsi Perizinan sebagai Instrumen Rekayasa Pembangunan. *Realism: Law Review*, *2*(2), 102–118.

Baharudin Riqiey, P. S. (2022). Problematika Kewenangan Pemerintah Daerah Dalam Pengelolaan Tambang. *Sosialita*, 1(1), 55.

Burlian, P. (2014). *Kewenangan Kepala Daerah Menurut Undang-Undang*. Palembang: NoerFikri.

Derita Prapti Rahayu, F. (2021). Eksistensi Pertambangan Rakyat Pasca Pemberlakuan Perubahan Undang-Undang tentang Pertambangan Mineral dan Batubara, *Jurnal Pembangunan Hukum Indonesia,* 3(3), 350.

Fartini, A. (2022). Politik Hukum: Otonomi Daerah Pasca Amandemen UUD 1945 Upaya Menjaga Keseimbangan Antara Prinsip Unity dan Diversity. *Pledoi: Jurnal Hukum dan Keadilan*, 1(1), 4.

Firmanda, K., Tethuka, B., Putri, A., Aini, N., & Aulia, P. R. (2025). Violation of the Right to Decent Work for Persons with Disabilities. *Disable: Law Review*, *1*(1), 80–102.

Gadjong, A. A. (2007). *Pemerintahan Daerah, Kajian Politik dan Hukum*. Bogor: Balai Pustaka.

Haryadi, D. (2018). *Pengantar Hukum Pertambangan Mineral dan Batubara*. Bangka Belitung: Universitas Bangka Belitung Press.

Haryati, T. (2019). Hak Penguasaan Negara Terhadap Sumber Daya Alam dan Implikasinya Terhadap Bentuk Pengusahaan Pertambangan. *Jurnal Hukum dan Pemnbangunan*, 49(3), 768.

Hezron Sabar Rotua Tinambunan, E. S. (2021). Reviewing the Medical Record Confidentiality of COVID-19 Patients. *Dinamika Hukum*, 35.

Hezron Sabar Rotua Tinambunan, H. W. (2022). State Responsibility For Implementing Large-Scale Social Restrictions To Communities Affected By COVID-19 in Surabaya City. *Diponegoro Law Review*, 282.

Huda, N. (2012). *Hukum Pemerintahan Daerah*. Bandung: Nusamedia.

Jamil, N. R. (2022). Problematika Penerapan Izin Usaha Pertambangan Undang-Undang Nomor 3 Tahun 2020 Tentang Pertambangan Mineral dan Batubara Serta Dampak Pada Otonomi Daerah. *Staatsrecht: Jurnal Hukum Kenegaraan dan Politik Islam*, 2(2), 289.

Jeddawi, M. (2005). *Memacu Invetasi Di Era Otonomi Daerah: Kajian Beberapa Perda Tentang Penanaman Modal*. Yogyakarta: UII Press.

Manan, B. (2001). *Menyongsong Fajar Otonomi Daerah*. Yogyakarta: Pusat Studi Hukum (PSH) Fakultas Hukum Universitas Islam Indonesia.

Marzuki, P. M. (2005). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.

Soedjito, I. (1990). *Hubungan Pemerintah Pusat dan Pemerintah Daerah*. Jakarta: Rineka Cipta.

Sugirman, A., Nawawi, J., Hamzah, Amir I., & Samararatne, D. (2025). Integration of Constitutional Law and Human Rights: A Comparative Study between Indonesia and South Africa. *Jurnal Suara Hukum*, *7*(1), 274–297. https://doi.org/10.26740/jsh.v7n1.p274-297

Suryaningsi. (2017). *Eksistensi Negara Atas Pengelolaan dan Pengusahaan Sumber Daya Mineral dan Batubara*. Yogyakarta: Krasi Total Media.

Syawal, T. (2022). Analisis Sektor Basis Perekonomian Daerah: Studi Kasus Bulukumba. *Development Policy and Management Review*, 2(2), 135.

Utami, N. E. (2023). Sentralisasi Terhadap Kewenangan Pemerintah Daerah Dalam Perizinan Tambang Pasca Pemberlakuan Undang-Undang Mineral dan Batubara. *Lex Renaissance*, 8(2), 368-369.

Zastrawati, A. (2023). Penguatan Hubungan Pemerintah Pusat dan Daerah Melalui Desentralisasi Asimetris Dalam Rangka Konsolidasi Demokrasi. *Kertas Karya Ilmiah Perseorangan (TASKAP) Program Pendidikan Singkat Angkatan XXIV*, Lembaga Ketahanan Nasional Republik Indonesia, Jakarta.

Zulkarnain, I. (2004). *Konflik di Daerah Pertambangan, Menuju Penyusunan Konsep Solusi Awal Dengan Kasus Pada Pertambangan Emas dan Batubara*. Jakarta: LIPI.