



## Regional Government Authority Regarding Mineral and Coal Mining Business Licenses in Indonesia based on Law Number 3 of 2020

Rina Andriani<sup>1</sup>, Sulaiman Kurdi<sup>2</sup>

<sup>1,2</sup>*Antasari State Islamic University Banjarmasin*

*e-mail: [rina.andrn@gmail.com](mailto:rina.andrn@gmail.com)<sup>1</sup>, [sulaimankurdi123@gmail.com](mailto:sulaimankurdi123@gmail.com)<sup>2</sup>*

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### Abstract

Mineral and Coal Mining, which is a source of state income, is specifically regulated in Law Number 3 of 2020, which is a new regulation on mineral and coal mining. The purpose of this research is to review the issue of mining business permits which previously belonged to the district or city regional government which later became the authority of the central government, namely Article 35 Paragraph (1). This research uses a normative legal approach through library research with legal literature and documents. The results of this research show that the authority of regional governments in managing mining in their regions is given limitations because in carrying out management there are many problems that arise when regional governments, especially district/city regional governments, issue mining business permits, such as corruption and overlapping business permits so that district governments. With the enactment of this law, cities do not have any authority, while the provincial government has the authority to grant permits related to mining which is delegated by the central government.

**Keywords:** Authority, Licensing, mineral and coal mining,

### Abstrak

Pertambangan Mineral dan Batubara yang menjadi salah satu sumber pendapatan negara secara khusus di atur dalam Undang-Undang Nomor 3 Tahun 2020 yang merupakan regulasi baru pertambangan mineral dan batubara. Penelitian ini bertujuan untuk meninjau mengenai persoalan izin usaha pertambangan yang sebelumnya berada pada pemerintah daerah kabupaten/kota yang kemudian menjadi kewenangan pemerintah pusat yaitu Pasal 35 Ayat (1). Penelitian ini menggunakan pendekatan hukum normatif melalui studi pustaka dengan literatur dan dokumen hukum. Hasil penelitian ini menunjukkan bahwa kewenangan dari pemerintah daerah dalam mengelola pertambangan didaerahnya diberikan batasan-batasan karena dalam melakukan pengelolaan terdapat banyak masalah yang muncul ketika pemerintah daerah khususnya pemerintah daerah kabupaten/kota yang memiliki wewenang untuk mengeluarkan izin usaha pertambangan seperti korupsi dan tumpang tindih izin usaha sehingga pemerintah kabupaten/kota dengan berlakunya undang-undang ini tidak memiliki kewenangan apapun, sedangkan pemerintah provinsi memiliki kewenangan pemberian izin terkait pertambangan yang didelegasikan oleh pemerintah pusat.

**Kata Kunci:** Wewenang, Perizinan, Pertambangan Mineral dan Batubara,

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## INTRODUCTION

In Indonesia, natural resource potential that has a very important role is mineral and coal mining because it is useful for the country's economic development and prosperity. Indonesia is one of the largest coal producers and exporters in the world, data from the Central Statistics Agency (BPS) for 2020 shows that coal in Indonesia has been exported as much as 407 million tons or worth USD 16.4 billion (equivalent to IDR 238 trillion) which contributes greatly to revenue. country. Meanwhile, domestic coal absorption is 132 million tons, around 80 percent of which is absorbed as a source of electricity by PLN.<sup>1</sup>

Meanwhile, apart from providing benefits, it also causes potential damage and causes potential changes to the environmental tone around mining activities.<sup>2</sup>Therefore, the management of mining must be carried out optimally while remaining based on the guidelines contained in Article 33 Paragraph (4) of the 1945 Constitution of the Republic of Indonesia while still paying attention to efficiency, transparency, sustainability, environmental insight, and justice so that we can obtain benefits as large as possible. - great for the people's sustainable prosperity, so here it can be said that the government has an important role in managing and supervising the exploitation of mining in Indonesia.

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<sup>1</sup>Direktorat Jenderal Mineral dan Batubara dan Kementerian Energi dan Sumber Daya Mineral, *Grand Strategy Mineral dan Batubara Arah Pengembangan Hulu Hilir Mineral Utama dan Batubara Menuju Indonesia Maju* (Jakarta, 2021), p. 387.

<sup>2</sup>Andi Arif Setiawan et al., "Review: Pollution Due to Coal Mining Activity and Its Impact on the Environment," *Sriwijaya Journal of Environment* Vol. 3, No. 1 (1 March 2018), p.

Then, regarding this urgency, Indonesian laws and regulations specifically regulate matters relating to mining, namely Law Number 3 of 2020 concerning Mineral and Coal Mining. This law regulates various matters, one of which is mining business permits. Law Number 3 of 2020 is an amendment to Law Number 4 of 2009 concerning Mining.

In the previous law, management of minerals and coal was carried out jointly between the government, regional governments and business actors, thus showing that there was no monopoly and centralization of mining management by the central government because regional governments were given the authority to issue mining permits and make regional regulations related to mining. Thus, decentralization is very visible with the aim of giving authority to regions to manage their natural resources in order to contribute to regional development so that regions have original regional income from mineral and coal mining.<sup>3</sup>

However, after the law was updated, namely with the promulgation of Law Number 3 of 2020, matters relating to licensing authority were changed to the authority of the central government through the relevant ministries. So that regional governments, which in the previous law had the authority to grant permits, provide guidance, resolve conflicts and supervise mining businesses, have completely disappeared. As a result, regional governments, especially districts/cities, no longer have any role after this law comes into effect.<sup>4</sup>

Thus, if at any time someone is harmed due to the actions of a mining company, whether in the form of environmental damage or a land dispute, the district/city government cannot take any action because its authority has been

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<sup>3</sup> Wahyu Nugroho, "Kebijakan Pengelolaan Tambang dan Masyarakat Hukum Adat yang Berkeadilan Ekologis," *Jurnal Konstitusi* Vol. 15, No. 4 (15 January 2019), p. 824

<sup>4</sup> Basthotan Milka Gumilang, Sherly Oktariani, and Tari Suswinda, "Analisis Undang-Undang No.3 Tahun 2020 yang Berpotensi Merugikan Masyarakat dan Lingkungan Berdasarkan Prinsip Sustainable Development Goals," *Jurnal Hukum Lex Generalis* Vol. 3, no. 11 (29 November 2022), p. 868

withdrawn. So when people want to protest regarding mining activities in the regions, they must report to the central government or at least through the provincial government to convey their complaints or protests because granting mining business permits has been replaced by the authority of the central government as stated in Article 35 Paragraph (1) of the Law. Law Number 3 of 2020.<sup>5</sup> So based on the matters above, this article is deemed to undermine the principle of decentralization contained in regional autonomy as contained in Article 18 Paragraph (5) of the 1945 Constitution of the Republic of Indonesia which states that regional governments exercise the widest possible autonomy, except government affairs that are determined by law to be central government affairs. This is intended to optimize the use of human and natural resources in Indonesia.

So based on the above, the author would like to explain the changes in authority taken from the regional government regarding mining business licensing to become the authority of the Regional Government in Law Number 3 of 2020 concerning Mineral and Coal Mining.

## **METHOD**

The type of research that the researcher used in writing this journal article is normative legal research using a statutory approach carried out through literature study.<sup>6</sup> In normative legal research, the main source of legal material is secondary data as a source or information material in a research, namely primary legal material in the form of statutory regulations, namely Law Number 3 of 2020, then secondary legal material, namely mining law books, law journal articles. as well as online news and tertiary legal materials, namely in the form of legal dictionaries and the Big Indonesian Dictionary (KBBI).

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<sup>5</sup> Gumilang, Oktariani, and Suswinda, p. 869.

<sup>6</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), p. 181.

## RESULTS AND DISCUSSIONS

### The State's Right to Control Over Mining in Indonesia

The right to control the state over mining resources in Indonesia is regulated in Article 33 Paragraph (3) of the 1945 Constitution which explains that the state controls things that include the earth, water and natural resources contained in Indonesian land which are used for the greatest prosperity. people of Indonesia. <sup>7</sup>In the phrase that reads "controlled by the state" in Article 33 Paragraph (3) of the 1945 Constitution, based on the opinion of Soepomo, who was one of the architects of the 1945 Constitution, provides an explanation regarding "controlled" as an effort to organize and/or organize, especially to carry out improvements and consider production. <sup>8</sup>Likewise, Mohammad Hatta, namely *the founding father* and economic figure of Indonesia, former first Vice President and one of the architects of the 1945 Constitution, stated that:

"...The government builds from the top, carrying out big things such as building electric power, drinking water supplies, organizing various kinds of production that affect the lives of many people. What is called in English "*Public Utilities*" is managed by the Government. The best of these big companies are in the hands of the Government..."

Then, Mohammad Hatta formulated the meaning of being controlled by the state, which means that being controlled by the state does not mean that the state itself becomes an entrepreneur, businessman and orderer, but it is more accurate to say that state power includes making regulations for the smooth running of the economy, regulations that prohibit exploitation. against weak people by people with capital.

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<sup>7</sup> Ahmad Redi, "Dinamika Konsepsi Penguasaan Negara Atas Sumber Daya Alam," *Jurnal Konstitusi* Vol. 12, no. 2 (June 2015), p. 406.

<sup>8</sup> Arizona, *Konstitusionalisme Agraria* (Sleman: STPN Press, 2014), p. 15.

Bagir Manan has a different opinion from Mohammad Hatta, namely that the scope of the meaning of being controlled by the state or state control rights is as follows:<sup>9</sup>

1. Control takes the form of a kind of state as owner, which means that the state, through the government, is the sole holder of authority to determine authority rights over it, including the land, water and wealth contained therein.
2. Carry out regulations and supervision in use and utilization
3. Capital participation and in the form of state companies for certain businesses.

Thus, if we interpret the word mastery in this case etymologically, it is "the process, method, act of controlling or undertaking." and exploit natural resources with all the potential that exists within the Indonesian legal territory.

Based on the description above, the existence of control and exploitation of mineral and coal mining resources which are fundamental for the nation and state is carried out by the state. It is important to remember that natural resources have a strategic role as elements that can be a means of achieving prosperity and well-being of the Indonesian people based on the principles contained in the 1945 Constitution of the Republic of Indonesia. Control of natural resources must be based on an economic system that is structured as a business. together based on the principle of kinship. Mineral and coal mining are natural resources in Indonesia controlled by the state. In clear terms, the meaning of control can be interpreted as meaning that the state has the right to make policies, manage, manage and be responsible for the natural resources that exist in Indonesia by prioritizing the prosperity of the people to create a people's welfare.

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<sup>9</sup> Redi, "Dinamika Konsepsi Penguasaan Negara Atas Sumber Daya Alam." p. 407

Furthermore, regarding this matter, the Constitutional Court in Decision Number 002/PUU-I/2003 provides an interpretation of the right to control the state which at the same time also places an obligation on the government to implement a policy (*beleid*), management action (*bestuursdaad*), regulation (*regelendad*), management (*beheersdaad*) and finally supervision (*toezichthoudensdaad*) which has the aim of being used as much as possible for the prosperity of the Indonesian people.

Based on data released by the Ministry of Finance of the Republic of Indonesia, Pendapatan Negara Bukan Pajak (PNBP) from the mineral and coal mining sector is IDR 224 trillion as of the third quarter of 2023.<sup>10</sup> This shows that the mining sector is quite large state income. However, in the state's management of natural resources in the form of mining there must also be limitations, as Maria SW Sumardjono said that the state's authority must be limited by two things, namely:<sup>11</sup>

- a. Restrictions through the 1945 Constitution of the Republic of Indonesia mean that matters regulated by the state must not be the cause of violations of human rights which are guaranteed in the 1945 Constitution of the Republic of Indonesia so that they do not cause harm to other parties or society. A person who gives up his rights must receive legal protection and fair reward for this sacrifice.
- b. Restrictions that have a substantive nature in the sense that all regulations made by the state must be relevant to the goals that the state wishes to realize, namely the greatest prosperity of the people, where this authority cannot be delegated to private parties because it concerns public welfare which is full of

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<sup>10</sup> Verda Nano Setiawan, "Sektor Minerba Setor Rp224 T ke APBN, Batu Bara Juaraanya," News, *CNBC Indonesia*, 16 October 2023, <https://www.cnbcindonesia.com/news/20231016180109-4-481023/sector-minerba-setor-rp224-t-ke-apbn-batu-bara-champion>, accessed on Tuesday, 19 December 2023.

<sup>11</sup> Maria SW Sumarjono, *Kebijakan Pertanahan Antara Regulasi dan Implementasi* (Jakarta: Kompas, 2000), p. 4.

service missions. Delegation to the private sector which is part of society will create a conflict of interest, and is therefore not possible

Based on the description above, it can be seen that restrictions on state power over mineral and coal resources are limited by two main things, namely the *first* is limited by the 1945 Constitution of the Republic of Indonesia. Management of mineral and coal resources must not result in the community being in contact with the management of mineral and coal resources. suffer losses, the community should receive legal protection. However, regarding legal protection in the new mineral and coal law, it does not even guarantee protection for the community, in Article 162 of Law Number 3 of 2020. If there are people who obstruct mining activities because they can be seen as damaging the environment or because there is a conflict, So, people who are deemed to be disrupting mining business activities will be sentenced to imprisonment for a maximum of 1 (one) year or a fine of a maximum of IDR 100,000,000.00 (One Hundred Million Rupiah). This is contrary to Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia concerning Human Rights which states that every person has the right to a good and healthy living environment.

One example of a case that confirms that the a quo article is problematic as a norm is seen in Decision Number 41/Pid.Sus/ 2012/PN.Sgt. with the defendant Yunus Toding Rante. Rante was charged under Article 162 of the Mineral and Coal Mining Law for installing a stretch of neat rope with wooden stakes attached to it and the words "Do Not Damage Planters' Community Roads" on the PT Kaltim Prima Coal Hauling route. In this case, the Panel of Judges sentenced Yunis Toding Rante to 3 months in prison, for committing the crime of obstructing or disrupting mining business activities.

Thus, this article has caused damage to the constitutional rights of the communities concerned, including the criminalization of residents who oppose mining to keep their



environment good and healthy, as experienced by the residents in the explanation above.

*Second*, the laws and regulations governing the management of mineral and coal resources must essentially side with the interests of the community, namely providing the greatest possible welfare for the majority of society. However, in reality on the ground, this mining resource management policy is actually detrimental to the community. For example, in the previous Mineral and Coal Law, Article 165 contained criminal sanctions for officials who have the potential to commit corruption by issuing permits and committing abuse of authority, but in the new Mineral and Coal Law this has been abolished, it can be said that if there is a If there is abuse of authority by the relevant official, there will be no criminal sanctions against him.

Therefore, restrictions on the state's authority, in this case the government, in managing natural resources, especially mineral and coal mining, should be strictly enforced in order to protect the interests of the state and society in carrying out their role as managers of natural resources so that there is a guarantee for the implementation of Article 33 1945 Constitution of the Republic of Indonesia.

### **Regional Government Authority regarding the Granting of Mining Business Permits**

Indonesia is a unitary country that adheres to the principle of decentralization by providing space for regional governments to be able to exercise regional autonomy. Based on Law Number 23 of 2014, decentralization is a transfer of affairs from the central government to autonomous regions based on the principle of autonomy.

What is meant by handover here is to use the *du-characteristic principle*, which means that the central government, in this case the president, hands over government affairs which are the authority of the regional government, not matters which are the authority of the central government itself to the autonomous regions, but that

authority remains. and does not disappear completely from the central government so that in other words the central government still has the main responsibility.<sup>12</sup>

What is proof of this decentralization ideal can be seen from Article 18 of the 1945 Constitution which states that there is a concept of division of authority with the formation of regional governments at levels 1 and 2, then amendments to article 18 of the 1945 Constitution which resulted in a shift in the government system becoming centralized towards a system that tends to be decentralized. This is driven by demands from society that can no longer be accommodated by the approach and paradigm of centralized government.

However, in Law Number 3 of 2020 concerning Mineral and Coal Mining, the content shows the waning of the principle of decentralization which previously existed in Law Number 4 of 2009 that regional governments have the right and authority regarding mining carried out in areas under their control. However, now with the enactment of the new Mineral and Coal Law, the provisions regarding mining regulations are again implemented entirely by the central government as stated in Article 35 Paragraph 1 of Law Number 3 of 2020 concerning the issuance of mining business permits which reads:

"Mining business is carried out based on permits from the central government"

So that in this case the authority to issue permits is the central government and no longer the authority of the regional government. As explained in the previous explanation, one of the backgrounds for the revision of the Mineral and Coal Law is synchronization with Article 14 Paragraph (1) of Law Number 23 of 2014 concerning Regional Government which revokes the authority of district regional governments so that statutory regulations those of equal standing do not cause problems in the form

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<sup>12</sup> Ferizaldi, *Dinamika Otonomi Daerah di Indonesia* (Lhokseumawe: Unimal press, tt), p. 12.

of *overlapping* regulations which give rise to confusing problems regarding the issuance of mining permits in the regions. Article 14 Paragraph (1) of Law Number 23 of 2014 concerning Regional Government reads:

"The administration of government affairs in the fields of forestry, maritime affairs, as well as energy and mineral resources is divided between the Central and provincial governments."

The reduction of the district government's control rights over mineral and coal is a sign that licensing is carried out in an integrated manner by the central government and the autonomy rights that have been given to regional governments evenly to manage natural resources in their regions can no longer be exercised. Therefore, here it can be seen that regional governments have almost no autonomy rights which are independent in their rights to control natural resources with respect to licensing authority.

The provisions contained in the 2014 Regional Government Law indicate that the Central Government wants efficiency in performance and minimizing problems in the mineral and coal mining sector. This policy can be justified because the Central Government has the authority to evaluate permits issued by regional governments which have caused environmental damage and which do not apply good mining rules. One of the findings from the Ministry of Energy and Mineral Resources (ESDM) in early 2012 before the revision of the Regional Government Law was that there were around 10,000 permits issued by Regional Governments, of which there were an estimated 5,000 problematic mining permits, in addition to It was also discovered that there were fake mining permits, overlapping permits and mining practices without permits (peti). According to the Director General of Mineral and Coal, the large

number of fake mining permits is because the new regent issued permits without looking at the permits that had been issued by the previous regent.<sup>13</sup>

Apart from that, mining areas. In addition, mineral and coal mining areas often intersect with the territories of local customary law communities and even overlap with forest areas. As of 2012, there were 1,337 mining cases recorded in districts/cities which had cost the state trillions of rupiah, most of which occurred due to the issuance of mining business permits in forest areas.

However, there are opportunities that can involve regional governments related to mining, namely by delegating authority which can be carried out by the central government to provincial regional heads. This is regulated in Article 35 Paragraph 4 of Law Number 3 of 2020 which reads:

"The central government can delegate the authority to grant business permits as intended in Paragraph (2) to provincial regional governments in accordance with the provisions of statutory regulations."

Based on this article, it can be interpreted that the central government still provides authority in the form of delegation to regional governments in terms of mining permits, but the delegation is given based on the provisions contained in the legislation, so that here there is still a role from regional governments. Apart from that, Article 35 Paragraph (4) of the Mineral and Coal Law can also be interpreted as saying that the central government does not have *absolute power* by centralizing the authority of Mineral and Coal, so that the central government gives space to the regions.

The delegation of mineral and coal authority is contained in Presidential Regulation Number 55 of 2022 concerning Delegation of Authority to Grant Business

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<sup>13</sup> Nabila Desyalika Putri and Dian Agung Wicaksono, Nabila Desyalika Putri dan Dian Agung Wicaksono, "Implikasi legislasi pengambilalihan kewenangan di Bidang Pertambangan Mineral dan Batubara oleh Pemerintah Pusat (Legislation Implication Of The Takeover Authority in Mineral and Coal Mining By The Central Government)," *Jurnal Legislasi Indonesia* Vol. 13, no. 1 (March 2016), p. 27.

Licensing in the Mineral and Coal Mining Sector. The existence of this regulation is useful for clarifying the main tasks and functions of regional government and is a step towards implementing regional autonomy. In this presidential regulation, the delegation made to regions is contained in Article 2 Paragraph (1) which includes:

"Granting Standard and Permit certificates, Guidance on the implementation of delegated business permits and supervision on the implementation of delegated business permits".

The mining commodities for which licensing authority can be delegated in accordance with Article 2 Paragraph (3) of Presidential Decree Number 55 of 2022 are limited to non-metallic mineral commodities such as diamonds and bentonite, and also include rocks including andesite, clay, landfill, gravel. excavation from hills, river gravel and backfill sand. Meanwhile, authority for other licensing remains with the central government.

Even though the authority to grant mining permits to district/city regional governments is withdrawn, in this case the regional government will still receive Profit Sharing Funds (DBH) sourced from natural resources (Article 289 paragraph (4) letter b), namely funds originating from mineral mining. and coal. These funds are in the form of fixed fees and receipts from exploration and exploitation fees generated in the area concerned with the nominal stated in Law Number 1 of 2022). Article 116 Paragraph (2) of Law Number 1 of 2022 states that the DBH of 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 80% (eighty percent) for the region. The provincial government concerned is 30% (thirty percent) while the producing district/city is 50% (fifty percent). And 20% (twenty percent) for the central government.

Then Article 116 Paragraph (3) states that the Production Sharing Fund for mineral and coal natural resources is sourced from contributions obtained from sea

areas above 4 (four) miles from the coastline up to 12 (twelve) miles from the coastline. set at 80% (eighty percent) for producing provinces.

Therefore, by delegating authority, the central government provides space for regions for regional economic development. However, so that regional governments do not take undesirable actions, the central government has the right to make efforts to guide and supervise all mining business permits issued by regional governments. Regulations relating to mining permits must be able to provide guarantees of legality in the implementation of mining activities.

So that justice can be upheld, in a legal state, limitations on power are absolute. This is in line with the essence of the statement from Lord Acton, a professor of modern history at Cambridge University who lived in the 19th century with his adage which stated that *"Power tends to corrupt and absolute power corrupts absolutely"*.<sup>14</sup>

Based on this postulate, corruption follows the nature of power. If power is centralized then corruption will follow. So the more centralized a power is, the more corruption will be at the center of that power. Likewise, vice versa, if what happens is regional autonomy then corruption follows along with the autonomy itself. This is because power moves from one center of power to another and is currently being experienced by Indonesia when implementing the principle of decentralization through regional autonomy. Then, if you imagine that what is happening is the widest possible autonomy then according to the postulate corruption will also follow that, namely occurring as widely as possible in many autonomous centers of power. So decentralization actually creates many problems in the form of fostering corrupt practices among regional officials.<sup>15</sup>

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<sup>14</sup> HM Arsyad Sanusi, "Relasi Antara Korupsi dan Kekuasaan," *Constitutional Journal* Vol. 6, No. 2 (July 2009), p. 83.

<sup>15</sup> Sanusi, p. 84.

According to Abdul Manan, <sup>16</sup>regional autonomy basically has two impacts, namely positive impacts and negative impacts. The positive impact is that with this regional autonomy policy regional development will be able to be implemented well in accordance with the aspirations and potential of the region and it is hoped that there will be an increase in welfare and public services. Meanwhile, the negative impact is that regional autonomy will open up opportunities for elements in regional government to harm the state and the people, such as corruption, collusion and nepotism.

For example, when Law Number 4 of 2009 concerning mineral and coal mining was still in force, there was a strong decentralization of power because regional heads, whether Governor or Regent, could have the authority to issue mining permits and as explained in the postulate above, corruption follows power so that There were many cases where regional heads during the period of enactment of the previous law, namely 2009-2020, were caught as a result of accepting bribes related to the issuance of mining business permits. Here are some of these cases:

*First*, the Regent of Tanah Bumbu for the 2010-2018 period, namely Mardani H. Maming, received a bribe of around 104.3 billion rupiah related to the approval of a mining operation and production business permit.<sup>17</sup> *Second*, the Governor of North Maluku, Abdul Gani Kasuba, who was recently arrested, was also involved in a mining permit issuance case during his two terms as governor. <sup>18</sup>*Third*, the Regent of East Kotawaringin, Central Kalimantan, namely Supian Hadi, caused the state to lose

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<sup>16</sup> Abdul Manan, *Dynamics of Legal Politics in Indonesia* (Jakarta: Kencana, 2018), p. 108–9.

<sup>17</sup> Prayogi Dewi Sulisty, "KPK Tahan Mardani Maming, Korupsi di Pertambangan Masih Bisa Terulang," News, *Kompas* (blog), 29 Juli 2022, <https://www.kompas.id/baca/polhuk/2022/07/29/perlu-regulasi-baru-demi-putus-mata-rantai-korupsi-tambang>, accessed on 24 December 2023.

<sup>18</sup> Raden Ariyo Wicaksono, "Ini Daftar Dugaan Korupsi Tambang Gubernur Malut Versi Jatam," News, *Betahita* (blog), 22 Desember 2023, <https://betahita.id/news/detail/9672/ini-daftar-dugaan-korupsi-tambang-gubernur-malut-versi-jatam.html?v=1703203681>, accessed on 25 December 2023.

up to 5.8 trillion due to corruption related to the process of granting mining business permits.<sup>19</sup>

So with the enactment of Law Number 3 of 2020 concerning Mineral and Coal Mining, there is a limitation of power regarding mineral and coal. Limiting power is an important thing to do so that power is not misused by parties who have power and to maintain justice in the government system, therefore autonomy as wide as possible needs to be limited and delegation of power also needs to be done to the regions and not done by the center alone. to avoid *abuse of power*.

## CONCLUSION

The authority regarding mineral and coal mining business permits underwent very significant changes in the new Mineral and Coal Law, where previously licensing could be carried out through regional governments, namely Provinces and Regency/City, so after the enactment of the Mineral and Coal Law this authority was massive. turn to the central government. However, the Law also provides an exception that authority regarding minerals and coal can be delegated to regional (provincial) governments but is limited to non-metal and rock commodities only.

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<sup>19</sup> Erika Kurnia, "Bupati Supian Hadi Tersangka, Kerugian Negara Tembus Rp 5 Triliun," News, *Kompas* (blog), 1 Februari 2019, <https://www.kompas.id/baca/utama/2019/02/01/bupati-supian-hadi-tersangka-kerugian-negara-tembus-rp-5-triliun>, accessed on 25 December 2023.



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