

Minerba One Data Indonesia (Modi) a Form of Harmony in the Management and Operation of Mineral and Coal Mining Business Activities in Indonesia

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Abstract. Article 33, section (3) of the 1945 Constitution commands the power directly over regular assets, counting minerals and coal, to be in the possession of the state. The mineral right turns into the property of the whole Indonesian individuals, where the mining right is implemented by the government, and mining activities are undertaken by business actors based on contracts/agreements and business licenses from the government. The government is obligated to provide equal treatment to all business actors, but the application of the principle of equal treatment must be adjusted to national interests. Minerba One Data Indonesia (MODI) is the harmony of applying equal treatment and national interests in the governance of data and information on minerals and coal in accordance with the principles of transparency, participatory, accountability, effectiveness, and efficiency as a single source of truth in mineral and coal mining activities. MODI is also a recognition of business license holders and serves as the basis for government services.

Keywords: MODI, Management, Operation, Mineral and Coal, Business

1 Introduction

Constitution, in the narrow sense, refers to a written constitution commonly known as the Basic Law or Constitution.[1] One way to interpret constitutional provisions is through analysis or interpretation of the constitution's wording. In this regard, there are various methods of interpretation that can be used. One of them is:

First, historical interpretation, which relies on the intentions of the framers and ratifiers of the Constitution; Second, textual interpretation, which directly looks at the wording of the text; Third, structural interpretation, which examines the structural relationship between the mandates of the Basic Law and the framework established by the rules; Fourth, doctrinal interpretation, which applies rules generated by precedent; Fifth, ethical interpretation, which looks at the moral commitments and ethos of the constitution; And sixth, prudential interpretation, which examines the balance between the costs and benefits of a particular rule. [2]

When taken a gander at inside the constitution in regards to the place of the State or government in controlling regular assets as specified in Article 33 of the 1945 Constitution, explicitly concerning Minerals and Coal, the phrasing of Article 33 of the 1945 Constitution is as per the following: "(1) ..., (2) parts of creation that are fundamental for the state and essential for the business of individuals are constrained by the state. (3) The earth and water and the

abundance in that are constrained by the state and utilized for the best success of individuals (4) ..., and so on."[3]

The translation of the expression "constrained by the state" should be visible from the historical backdrop of the arrangement of Article 33. In the established arrangement records (Constitution of the Republic of Indonesia in 1945), as expressed by Moh. Hatta (1980), the translation of "constrained by the state" doesn't mean the immediate inclusion of the state as a business person, financial specialist, or ordainer. All things considered, the importance of "constrained by the state" is translated as the state's authority to create regulations to support the smooth running of economic activities, preventing the monopoly of production branches and natural resources. Additionally, Moh. Yamin interprets the phrase "controlled by the state" not only as state control in the form of regulations but also as administration and/or management in the context of governance and production improvement by making cooperatives the main driving force. [4]

Moreover, the importance of the expression "constrained by the state" should be visible in a few Established Court Choices, where a few choices give a translation that "State control doesn't mean proprietorship by the state however as in the state figures out strategies (Beleid), directs (Regelendaad), makes due (Bestuursdaad), and manages [toezichthoudensdoad]. [4]

The Authority Right of the State as mandated by Article 33 paragraph (3) of the 1945 Constitution has a philosophical meaning that must be realized in every natural resource management activity and implies that:

- a. The ownership of natural resources originates from the power of the people known as the Nation's Right (mineral right). Therefore, the utilization of natural resources must benefit the people to the greatest extent.
- b. The people then grant the authority right to the State as the organizational entity of the State. The State's authority is viewed as a territory with state character, giving it the power to regulate, manage, and maintain utilization, as well as to act within and outside the country.
- c. Acting in regulation and management is the Government as the executor of the State's movement (mining right).
- d. Through its authority, the Government grants various permits to business actors for mining activities (economic right). In its implementation, the Government continues to supervise and nurture to guarantee that mining exercises accomplish the best advantage for the success of individuals. [5]

In view of the arrangements of Regulation Number 4 of 2009 concerning Mineral and Coal Mining, the position to give Mining Permits to operate lies with the Pastor assuming the mentioned area is in the between commonplace region, the Lead representative on the off chance that the mentioned area is in the between locale/city region, and the Chairman/Official assuming the mentioned area is inside the locale/city region. After the establishment of Regulation Number 23 of 2014 concerning Provincial Government, the authority of the Mayor/Regent was transferred to the Governor

Since the establishment of Regulation Number 3 of 2020 altering Regulation Number 4 of 2009 concerning Mineral and Coal Mining, the position to give IUP (Mining Permit to operate), IPR (Mining Region License), and SIPB (Ecological Effect Investigation) lies with the focal government. At the point when the issuance of mining licenses to operate is in the region (province/district/city), various issues arise related to the requirements for the issuance of Mining Business Licenses, including administrative, territorial, technical, environmental, and financial issues. Based on this, the Central Government, entrusted with the mandate to supervise and oversee the implementation of Mineral and Coal Mining activities, established a system called Minerba One Data Indonesia (MODI). [6]

The factors mentioned above have prompted the author to formulate several issues as follows:

1. Is Minerba One Data Indonesia (MODI) a Harmony in Managing and Operating Mineral and Coal Mining Activities in Indonesia?
2. How does Minerba One Data Indonesia (MODI) serve as recognition for the holders of Mining Business Licenses and as the basis for government services?

This research is a normative juridical study, focusing on examining the application of rules or norms in positive law. The results of the research are presented in a systematic description, meaning that secondary data obtained will be connected to each other according to the researched issues, forming a comprehensive unit that meets the research needs. The information utilized in this study are auxiliary information comprising of essential legitimate materials, for example, regulations and ecclesiastical guidelines, optional lawful materials, for example, books, diaries, research reports, and tertiary legitimate materials like word references. The collected secondary data is then analyzed qualitatively and presented in descriptive form.

2 Literature Review

1. Background of the Clear and Clean Policy.

In accordance with the mandate of Article 9 of Law No. 4/2009, Mining Areas (WP) as part of the national spatial planning serve as the basis for determining mining activities. The assignment of WP is completed by the Public authority in the wake of planning with nearby legislatures and talking with Individuals' Consultative Get together of the Republic of Indonesia.[7] On August 11, 2010, the Minister of Energy and Mineral Resources sent a letter to the Chairman of the Indonesian People's Consultative Assembly regarding the Consultation on Mining Areas, followed by a similar letter to Commission VII, to convey the draft Mining Areas based on coordination with local governments. In response to the letter from the Minister of Energy and Mineral Resources, Commission VII of the Indonesian People's Consultative Assembly requested the Directorate General of Mineral and Coal to conduct an inventory of Mining Business Licenses (IUP) through the National IUP Reconciliation. The aim was to ensure that permits issued by local governments are registered in the national database, making national coal and mineral IUP data readily available and contributing to increased state revenue. The legal basis for organizing the National IUP Reconciliation is the obligation of governors and regents/mayors to report data and information on mining management to the Minister for management, as well as the standardization of geographic information systems and map formats, and the integration of data between the central and regional levels, in accordance with Article 36 paragraphs (3) and (4), and Article 38 paragraphs (1) and (3) of Government Regulation No. 22/2010 [8], and Article 102 paragraph (2) of Government Regulation No. 23/2010. [9]

The National IUP Reconciliation activity was attended by governors and regents/mayors throughout Indonesia. The activities carried out in the IUP reconciliation included local governments submitting IUP data along with the chronology of their licensing, from the reservation of areas and/or Mining Authorization (KP) to adjustment into IUP. Complete IUP data with its chronology is labeled as Clear and Clean (CNC) IUP, while those that do not meet or complete their licensing documents are labeled as Non-Clear and Clean (Non-CNC) IUP.

Furthermore, as part of mining governance reform, the Corruption Eradication Commission (KPK) initiated the Coordination and Supervision of Minerals and Coal,

which is part of the National Movement for the Conservation of Natural Resources (GNPSDA). The focus of KPK's Korsup Minerba supervision activities includes the arrangement of Mining Business Licenses (IUP) issued by both the Central and Regional Governments and the implementation of financial obligations by mining business actors.

In the Coordination and Supervision of Minerals and Coal activities, numerous IUPs, especially those issued by local governments, were found not to comply with legal regulations. Some follow-up recommendations by the KPK on these findings include:

- a. The need for regulatory improvements, such as Ministerial Regulations (Permen);
- b. Improvement of licensing procedures;
- c. The necessity of building a mining database, including through Minerba One Map Indonesia (MOMI);
- d. Supervision of compliance with obligations by regional governments and business actors;
- e. Rectification of mining business licenses through the Clear and Clean (CNC) process.

As a consequence of the issuance of Law Number 23/2014 concerning Regional Governments [10], which stipulates that the authority to issue IUP is solely the responsibility of the Central and Provincial Governments, a handover of documents is required as mandated by Article 404 of Law 23/2014. Subsequently, the Minister of Energy and Mineral Resources, in accordance with his authority and to implement the KPK's follow-up recommendations, issued Ministerial Regulation Number 43 of 2015 concerning the Procedure for Evaluating Mineral and Coal Permits (hereinafter referred to as "Ministerial Regulation 43/2015"), which regulates the obligation for the Minister or Governor, according to their authority, to evaluate the issuance of IUP for mining licensing documents that have been issued.

According to Ministerial Regulation 43/2015, IUPs that meet administrative and territorial requirements will be granted the status of Clear and Clean IUP and announced through the Clear and Clean IUP Status Announcement as stipulated in Article 22 of Ministerial Regulation 43/2015. For IUPs that have been granted Clear and Clean status and intend to obtain a Clear and Clean Certificate, they can apply after completing technical, financial, and environmental requirements as specified in Article 24 of Ministerial Regulation 43/2015, as a confirmation of the status of the IUP holder announced through the Clear and Clean IUP Status Announcement.

2. Background of Granting Registered IUP

Status Based on Article 21 paragraph (1) of Ministerial Regulation No. 43 of 2015, it is stated that "the Governor must submit the results of the evaluation of IUP issuance as referred to in Article 5 to Article 20 to the Minister through the Director General no later than 90 (ninety) calendar days from the signing of the handover document of licensing from the Regent/mayor" (at the latest on January 2, 2017).

In the execution of management over the administration of mineral and coal mining exercises, the Director General of Mineral and Coal ("Director General") issues a list of IUPs resulting from the arrangement of IUPs and IUPKs that meet the following criteria: a. WIUP or its WIUPK does not overlap with the same commodity; b. Has fulfilled the obligation to pay non-tax state revenue; and c. Has fulfilled technical and environmental obligations in accordance with legal regulations.

Furthermore, for IUP/IUPK with ongoing territorial, financial, technical, and environmental issues and still in the process of dispute resolution in court or relevant

authorized institutions, the Director General includes the IUP or IUPK in the list after a court decision or decision from the relevant authorized institution states that the IUP or IUPK has met the prerequisites as specified in Article 54 of Pastoral Guideline No. 26 of 2018 concerning the Execution of Good Mining Standards and Management of Mineral and Coal Mining (Clerical Guideline 26/2018). The issuance of the Rundown of IUPs that Meet the Prerequisites by the Chief General fills in as the reason for giving permitting administrations in mineral and coal mining exercises. [8]

3. Understanding of Minerba One Data Indonesia (MODI)

Because the List of IUPs that Meet the Requirements is the basis for providing licensing services in mineral and coal mining activities, for the purpose of managing data and information related to Mineral and Coal permits, in accordance with the principles of transparency, participatory, accountability, effectiveness, and efficiency as a single source of truth in mineral and coal mining activities, the Directorate General of Mineral and Coal has developed a system called Minerba One Data Indonesia (MODI), which contains information related to Clear and Clean Mining Business Licenses and Mining Business Licenses that Meet the Requirements. [12]

Currently, several systems have been synchronized with the MODI application, including the Online Single Submission (OSS), Minerba Online Monitoring System (MOMS), e-PNBP, and e-Investment. MODI, as the company data center and dashboard at the Directorate General of Mineral and Coal, can serve as a central data system aimed at facilitating the Government and IUP holders to view licensing, supervision, e-PNBP payments, and integrated company reporting data across different systems.

3 Discussion

1. Minerba One Data Indonesia (MODI) as the Harmony of Management and Operation of Mineral and Coal Mining Activities in Indonesia

The IUP or IUPK has met the prerequisites as specified in Article 54 of Pastoral Guideline No. 26 of 2018 concerning the Execution of Good Mining Standards and Management of Mineral and Coal Mining (Clerical Guideline 26/2018). The issuance of the Rundown of IUPs that Meet the Prerequisites by the Chief General fills in as the reason for giving permitting administrations in mineral and coal mining exercises. [9]

The administration of normal abundance should be founded on Article 33 section (3) of the 1945 Constitution, which directs that the earth and water and the regular assets contained in that are constrained by the State and utilized for the best thriving individuals. Article 33 section (3) of the 1945 Constitution fills in as the reason for the state's position over normal abundance. The state's power over normal abundance is a device to accomplish the objective of the best success of individuals. There is a relationship between the state's position over normal assets and the success of individuals, with the thriving individuals being a desire that should be acknowledged by the Indonesian Government, and the administration of regular assets being one of the devices to accomplish this objective.

The meaning of Article 33 paragraph (3) of the 1945 Constitution implies that:

1. The right to ownership of natural resources stems from the power of the people referred to as the Nation's Right (mineral right). Therefore, the utilization of natural resources must provide the greatest benefit for the prosperity of the people.
2. The people then grant authority to the state (authority right) as an organizational entity. State authority is considered as a territory with a state character, giving it the authority to regulate, manage, and maintain its utilization and to act within and outside the country.
3. Acting in regulation and management is the Government as the executor of the state's movement (mining right).
4. Through its authority, the Government grants various permits to business actors to carry out mining activities (economic right). In its implementation, the Government continues to supervise and guide mining activities to achieve the greatest prosperity for the people.

As a form of implementation of the mining right in the field of Mineral and Coal, the Government develops a platform to provide data and information related to mineral and coal mining activities. MODI serves as a form of transparency, supervision, and public service.

The Government uses MODI as a tool for guidance and supervision, such as Budget Activity Plans, Non-Tax State Revenue, Production, Sales, reclamation, post-mining, and others. This is as per the arrangements of Article 35 passage (1) letter l of Regulation Number 3 of 2020, where the Focal Government in overseeing Mineral and Coal Mining has the power to direct and manage the execution of Mining Business Exercises completed by Permit to operate holders. [10]

For IUP holders, being registered in MODI is a requirement to receive services related to Mining Business activities, where IUP holders can be provided with services such as approval of Budget and Cost Work Plans, Change of Shares, Sales, and others.

Based on the above explanation, it is known that MODI is the implementation of the Harmony of Management and Operation of Mineral and Coal Mining Activities in Indonesia and a form of recognition and the basis for providing services from the government as the executor of the mining right and IUP holders as the implementers of mining activities (economic right), because in MODI there is the implementation of regulations, guidance, and supervision by the Government and the rights and obligations of IUP holders

2. Minerba One Data Indonesia (MODI) as Recognition of Business License Holders and the Basis for Government Services

As indicated by the arrangements of Article 54 of the Pastor of Energy and Mineral Assets Guideline Number 26 of 2018, with the substance of the article as follows:

- (1) In the execution of management over the administration of mineral and coal mining tasks, the Director General issues a list of IUP and IUPK resulting from the arrangement that meets the following criteria: a. WIUP or WIUPK does not overlap with the same commodity; b. Has fulfilled the obligation to pay non-tax revenue; and c. Has fulfilled technical and environmental obligations in accordance with the provisions of laws and regulations.
- (2) In the event that compliance with the provisions as referred to in paragraph (1) is in the process of dispute resolution in court or relevant authorized institutions, the

Director General includes IUP or IUPK in the list as referred to in paragraph (1) after there is a decision from the court or relevant authorized institution stating that the IUP or IUPK in question has fulfilled the provisions as referred to in paragraph (1).

- (3) The issuance of the list of IUP and IUPK by the Director General as referred to in paragraphs (1) and (2) serves as the basis for providing licensing services in mineral and coal mining business activities. [11]

In light of the arrangements of Article 54 passage (3) of the Law of Energy and Mineral Assets Guideline Number 26 of 2018, obviously MODI fills in as the reason for offering types of assistance to IUP holders.

4 Conclusion

From the discussion outlined above, the author draws the following conclusion: MODI is a platform that benefits the government as the holder of mining rights in terms of transparency, supervision, and public services, and for IUP holders as the implementers of mining activities, serving as the basis for government recognition and Top service provision of Form.

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