Research Paper

The Evolution of Mining Regulations in Indonesia: Legal Framework, Implementation, and Challenges

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Abstract

Mining regulations in Indonesia have undergone significant transformations in response to political, economic, and environmental dynamics. Beginning with Law No. 11 of 1967, which introduced a framework for foreign investment in the mining sector, the regulatory landscape has evolved through various reforms, including Law No. 4 of 2009, Law No. 3 of 2020, and Law No. 2 of 2025. These laws reflect the state's effort to strengthen control over mineral resources, promote downstream processing, and ensure environmental protection. Despite normative improvements, implementation remains challenging due to overlapping authorities, weak enforcement, and infrastructural constraints. In addition, the further regulation focuses on technical aspect, which are Ministerial Decree No. 1806/2018 and Ministerial Decree No. 1827/2018. This paper examines the historical development, key provisions, and implications of Indonesia's mining regulations, highlighting both progress achieved and persistent issues.

Keywords: Indonesia Mining Regulation; Mineral and Coal; Downstreaming; Environmental Governance; Good Mining Practice

INTRODUCTION

The mining sector plays a strategic role in Indonesia's economic development, given the nation's vast reserves of coal, nickel, copper, and other mineral resources. According to Article 33 (3) of the 1945 Constitution, the state is mandated to control natural resources for the prosperity of the people. This constitutional principle has been translated into a series of mining laws and technical regulations designed to balance economic growth, social justice, and environmental sustainability.

The history of mining regulation in Indonesia since independence reflects a continuous process of legal adaptation to economic, political, and environmental challenges. The enactment of Law No. 11 of 1967 laid the foundation by declaring mineral resources as state property and introducing the Contract of Work system to attract foreign investment. However, decentralization led to overlapping permits and governance issues, prompting further reforms. The introduction of Law No. 4 of 2009 on Mineral and Coal Mining marked a significant shift, replacing Contracts of Work with Mining Business Permits (IUP) and emphasizing domestic processing obligations. This framework was revised by Law No. 23 of 2014, which re-centralized licensing to provincial and central levels to improve coordination. Further strengthening occurred under Law No. 3 of 2020, which extended permit durations, promoted downstream processing, and streamlined procedures through the Online Single Submission system. The trajectory continued with the Omnibus Law No. 11 of 2020, which amended various provisions to encourage investment while integrating sustainability and industrial policy objectives.

In general, Indonesia's mining regulations have shifted from liberal frameworks encouraging

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foreign investment to more centralized and state-controlled systems over the decades. These changes reflect broader socio-political dynamics, such as the implementation of regional autonomy, increasing global environmental concerns, and the nation's ambition to advance downstream industries. Thus, this paper provides a structured review of the evolution of mining regulations in Indonesia, analyzing their objectives, strengths, weaknesses, and implications for governance and society.

Historical Development of Mining Regulations

The historical trajectory of mining regulation in Indonesia reflects the state's ongoing effort to balance national sovereignty, economic growth, and sustainability in the governance of mineral and coal resources. A pivotal starting point was Law No. 11 of 1967 on Basic Mining Provisions, which established the framework for contracts of work and coal contracts of work, granting significant roles to foreign investors while positioning the state as the formal authority. However, as the limitations of this system became increasingly apparent-particularly regarding sovereignty, legal certainty, and environmental accountability-the government introduced Law No. 4 of 2009 on Mineral and Coal Mining, which marked a major shift toward a licensing regime. This transition aimed to standardize governance, enhance state control, and improve alignment with constitutional principles. Building on these reforms, Law No. 3 of 2020 further centralized licensing authority at the national level, clarified state oversight, and introduced stricter obligations for environmental and community development. The momentum continued with Law No. 2 of 2025, which reflects the most recent phase of regulatory refinement, addressing gaps in implementation and aligning the mining sector with long-term sustainability and energy transition goals. Complementing these legislative milestones, technical regulations such as Ministerial Decree No. 1806/2018 on good mining practice and Ministerial Decree No. 1827/2018 on environmental management serve as critical instruments to operationalize statutory provisions at the practical level. Together, these laws and regulations illustrate the evolving landscape of Indonesia's mining governance, highlighting a progressive shift toward stronger state authority, clearer compliance mechanisms, and greater attention to social and environmental dimensions of mining activities. This chapter discusses those regulations in detail.

Law No. 11 of 1967: The Early Post-Independence Framework

Law No. 11 of 1967 was enacted as Indonesia's first comprehensive mining regulation after independence, replacing the 1960 Provisional Mining Law. This law introduced the Contract of Work (CoW) system, under which foreign companies could operate in Indonesia through agreements with the government (Government of Indonesia, 1967). The rationale behind this framework was to attract much-needed foreign capital and expertise to develop Indonesia's vast mineral potential. A well-known case is PT Freeport Indonesia, which signed the first-generation CoW in 1967 to exploit the copper and gold deposits in Papua.

Despite its success in attracting foreign investment, the law faced criticism for providing excessive privileges to foreign companies while limiting state sovereignty. The state's control over resources was more theoretical than practical, as foreign companies often dictated terms. Moreover, environmental and social considerations were largely ignored. This laid the foundation for decades of debate over the balance between investment and sovereignty (Rahmad, 2014).

In other words, 1967 Mining Law (UU No. 11/1967) provided excessive privileges to foreign companies while limiting the exercise of state sovereignty. Contracts of Work often granted multinational corporations extensive rights over vast mining concessions, with favorable tax arrangements, profit-sharing mechanisms, and legal protections that placed the state in a

subordinate position. In practice, the state's control over resources was more theoretical than real, as foreign companies were able to dictate operational terms, negotiate contract extensions, and repatriate significant portions of profits. Moreover, environmental and social considerations were largely ignored in the regulatory framework, as there were no binding requirements for environmental impact assessments or meaningful community participation (Rahmad, 2014). This absence of safeguards resulted in cases of deforestation, land degradation, and the displacement of local communities, particularly in resource-rich regions such as Kalimantan and Papua. Critics argued that the law created a form of "legal dependency," where Indonesia's mineral wealth was exploited without sufficient benefits accruing to the broader population. The structural imbalance between foreign corporate interests and national control laid the foundation for decades of debate over the balance between investment and sovereignty. These tensions became even more pronounced in the post-Suharto era, when democratization and decentralization opened new demands for fairer resource governance and stronger environmental protections.

Law No. 4 of 2009: Transition to Licensing Regime

Four decades later, Law No. 4 of 2009 was introduced to overhaul Indonesia's mining regulatory framework. This law abolished the CoW and replaced it with a licensing system, consisting of Mining Business Permits (IUP), Special Mining Permits (IUPK), and Community Mining Permits (IPR) (Government of Indonesia, 2009). It reaffirmed the principle of state ownership of mineral and coal resources, in line with Article 33 of the 1945 Constitution.

The law introduced several key reforms. First, it required domestic processing and refining of minerals, known as the downstreaming policy. This was intended to increase value addition and reduce reliance on raw mineral exports. Second, it strengthened environmental safeguards by mandating reclamation and post-mining plans, backed by financial guarantees. Third, it required companies to prioritize local labor and implement community development programs.

However, implementation was problematic. Regional autonomy laws had devolved licensing authority to provincial and district governments, leading to widespread irregularities. Over 4,000 mining licenses (IUPs) were identified as problematic, many overlapping with protected forests and plantations (Rahmad, 2014). Furthermore, the downstreaming policy faced delays because smelter construction required huge capital investments and long lead times (ESDM, 2023).

In short, the enactment of Law No. 4 of 2009 on Mineral and Coal Mining was driven by the urgent need to transition from the outdated contract-based system, which relied heavily on Contracts of Work (CoWs) and Coal Contracts of Work (CCoWs), to a more standardized licensing regime. Under the contract system, foreign companies often held disproportionate bargaining power, leading to unequal terms that limited the state's ability to exercise full sovereignty over its natural resources. The absence of uniform licensing procedures created inconsistencies in governance, legal uncertainty, and frequent disputes between investors and the government. Furthermore, the contract model was considered incompatible with the 1945 Constitution, which mandates that natural resources be controlled by the state and used for the greatest benefit of the people. By introducing a licensing regime, the 2009 Law aimed to centralize state authority, harmonize investment rules, and create clearer obligations for environmental management, revenue sharing, and community development. This shift was particularly urgent as many long-standing contracts were approaching expiration, raising questions about renewal mechanisms and state control over strategic resources. Without a clear transition framework, Indonesia risked both losing investor confidence and undermining its constitutional mandate. Therefore, the release of Law No. 4 of 2009 was not only a legal reform but also a political and economic necessity to strengthen national sovereignty through a licensing-based mining governance system.

Law No. 3 of 2020: Centralization of Authority

In response to these challenges, Law No. 3 of 2020 amended the 2009 law by centralizing mining authority under the national government. All licensing powers, including IUPs, IUPKs, and IPRs, were removed from regional governments and returned to the Ministry of Energy and Mineral Resources (Government of Indonesia, 2020). This reform was intended to reduce irregularities, curb corruption in licensing, and streamline governance.

The law also reinforced the downstreaming mandate and required companies to provide reclamation and post-mining guarantees. Moreover, it granted automatic extensions to large-scale mining concessions, such as PT Kaltim Prima Coal and PT Arutmin Indonesia, which had previously operated under PKP2B contracts (ESDM, 2023).

Despite these changes, Law No. 3 of 2020 attracted criticism. Local governments and civil society groups argued that centralization reduced community participation and weakened local oversight. Environmental activists also noted that the law allowed mining activities to continue even in cases of environmental violations, thereby undermining ecological safeguards (Sutrisno, 2024).

The release of Law No. 3 of 2020 represented an urgent response to longstanding regulatory uncertainties and structural weaknesses in Indonesia's mining governance. The previous framework under Law No. 4 of 2009 had created ambiguity regarding licensing authority between central and regional governments, particularly after the decentralization reforms, which led to overlapping permits and widespread illegal mining activities. This fragmentation undermined legal certainty for investors, discouraged long-term commitments, and complicated enforcement of environmental and social obligations. At the same time, many Contracts of Work and Coal Contracts of Work were approaching expiration, generating pressure to establish a clear legal mechanism for their extension to prevent disruptions in production and revenue streams. Moreover, the government faced increasing demands to strengthen state control over mineral resources, maximize value-added through downstream processing, and ensure greater contribution of the mining sector to national development. The law also addressed the urgent need to harmonize Indonesia's mining regime with global sustainability standards by integrating stricter reclamation, post-mining, and environmental obligations. Without these revisions, Indonesia risked continued exploitation under outdated contractual schemes, legal disputes, and lost opportunities for advancing its industrialization agenda. Thus, Law No. 3 of 2020 emerged as both a corrective measure and a strategic instrument to realign the mining sector with the state's long-term sovereignty and economic goals.

Law No. 2 of 2025: Toward Inclusive and Equitable Governance

The most recent development in Indonesia's mining regulatory framework is Law No. 2 of 2025, which was designed to address the shortcomings of the 2020 law while responding to global sustainability demands. This law introduced provisions prioritizing cooperatives, small and medium enterprises (SMEs), and faith-based organizations in the allocation of mining areas (Government of Indonesia, 2025). By doing so, it aimed to democratize access to mineral resources and ensure that local communities benefit more directly from mining.

The law also addressed fiscal issues by emphasizing a more equitable redistribution of non-tax revenues (PNBP) between central and local governments (Database Peraturan, 2025). In addition, it aligned with Constitutional Court rulings that required greater public participation in resource governance. For example, in nickel-rich Sulawesi, local cooperatives have been granted access to mining concessions, a departure from the dominance of large corporations.

Nevertheless, challenges remain. Centralization still risks bureaucratic delays, and uneven

infrastructure across regions hampers downstreaming. Furthermore, the inclusivity goals of the law depend heavily on the administrative capacity of cooperatives and SMEs, which often lack the technical and financial resources required for large-scale mining (Putra, 2024).

Technical Regulations: Complementary Instruments

Ministerial Decree No. 1806/2018 introduced guidelines for preparing and evaluating Work Plans and Budgets (RKAB). It required companies to submit comprehensive plans covering technical, financial, and environmental aspects. A notable provision was the requirement that resource and reserve estimates must be certified by Competent Persons in accordance with the Indonesian KCMI standard (Ministry of Energy and Mineral Resources, 2018a). While this improved accountability, small companies struggled to comply due to the high costs of certification and technical data.

Ministerial Decree No. 1827/2018 established detailed standards for Good Mining Practices, covering exploration, operations, environmental management, reclamation, and post-mining activities (Ministry of Energy and Mineral Resources, 2018b). It specifically addressed acid mine drainage and hazardous waste management. However, the effectiveness of this regulation has been questioned, as cases such as acid mine drainage in abandoned coal mines in Kalimantan continue to harm local ecosystems (Sutrisno, 2024).

Analysis: Progress and Persistent Challenges

Indonesia's mining regulations have achieved several important milestones. They have strengthened the legal foundation of state control over resources, improved investment certainty, and imposed obligations for downstream processing and environmental management. The introduction of inclusivity through Law No. 2 of 2025 represents a progressive step toward more equitable governance (Government of Indonesia, 2025).

However, persistent challenges remain. The centralization of authority, while reducing irregularities, has marginalized local governments and communities (Putra, 2024). Enforcement remains weak, as evidenced by the revocation of more than 2,000 inactive or problematic IUPs after the enactment of the 2020 law (ESDM, 2022). Infrastructure gaps also hinder downstreaming, with only about half of planned nickel smelters operational by 2023 (ESDM, 2023). Social and environmental conflicts, including land disputes and pollution incidents such as the contamination of the Muara Sampara River in Southeast Sulawesi, highlight ongoing governance deficits (Sutrisno, 2024).

Conclusion

The historical trajectory of Indonesia's mining regulations reflects the government's ongoing efforts to balance sovereignty, investment, environmental protection, and social justice. Each reform-Law No. 11 of 1967, Law No. 4 of 2009, Law No. 3 of 2020, and Law No. 2 of 2025-represents a response to specific political, economic, and global challenges. While significant progress has been made in areas such as downstreaming and inclusivity, the persistent problems of weak enforcement, bureaucratic inefficiency, and environmental degradation remain unresolved.

Looking ahead, effective implementation will require not only legal reforms but also stronger institutions, better enforcement mechanisms, digitalized licensing systems, and meaningful public participation. Only through these measures can Indonesia ensure that its mineral wealth contributes to sustainable national development and the long-term prosperity of its people.

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