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Article Reviews

Qualitative Analysis of Corruption in Mining and Its Impact on Sustainable Development

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Abstract

State management and oversight of natural resources is a constitutionally mandated responsibility. However, the mining extractive industry is often plagued by corruption, which hinders sustainable development efforts. This research investigates corruption within the mining extractive industry, focusing on cases related to mining business permits (IUP). Using a qualitative approach through a literature review, the study analyzes various corruption cases in the issuance of mining permits and examines relevant laws and regulations. The findings reveal that Indonesian mining regulations, grounded in the 1945 Constitution, mandate that natural resources be managed for public welfare. Law Number 4 of 2009 on Mineral and Coal Mining replaces the previous contract system with more transparent mining business permits overseen by both central and regional governments. This research underscores the need for regulatory improvements and a clearer delineation of authority to optimize natural resource management and prevent corrupt practices that undermine sustainable development efforts in Indonesia.

Keywords *Corruption, Extractive Industry, Sustainable Development*

INTRODUCTION

The Government of Indonesia is responsible for regulating and supervising natural resources in accordance with the constitutional mandate of Article 33, paragraphs (2) and (3) of the 1945 Constitution. The article states that the land, water, and natural resources contained in it belong to the state and must be utilized as much as possible for the welfare of the people (Tanjung, 2017). To fulfil this constitutional mandate, the Indonesian government passed Law Number 4 of 2009 to ensure that the exploitation of natural resources is conducted responsibly and sustainably to improve people's welfare and protect the environment (Pranoto, 2015).

Mine management has an important role because it is related to many people's lives. This sector makes a major contribution to the national economy through job creation, infrastructure development, and state revenue from taxes and royalties. Indonesia's natural resources have enormous economic value. The Indonesian government promulgated Law No. 4 of 2009 concerning the mining industry to conduct this constitutional mandate. The law provides a legal framework for the management of mineral and coal resources in Indonesia, controlling the use of mining can be conducted safely, efficiently, and sustainably and coal reserves reach 39.89 billion tons. These reserves significantly contribute to national economic growth.

The mining sector's importance to the national economy requires clear legal regulations. Mining business permits (IUP) are the main instruments in regulating and supervising mining activities. IUP is given by the government from the central to the regions based on the authority in Law No. 4 of 2009, which not only aims to maximize the use of natural resources but also to control mining activities conducted in a sustainable and responsible manner. This includes efforts to prevent environmental damage, ensure work safety, and ensure the welfare of the surrounding

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community. Thus, this law plays an important role in supporting Indonesia's economic development while maintaining environmental sustainability and social welfare, regulating the IUP issuance procedures in Articles 6, 7, and 8. In addition, Law No. 23 of 2014 concerning Government Administration and Government Regulations determines how government affairs related to energy and mineral resources must be managed.

Major challenges still exist in mining management, especially related to the problem of corruption. Corruption cases often occur in the process of issuing IUPs, which can threaten the integrity of the natural resource management system (Ashfiya, 2023). One of the major corruption cases that was revealed was alleged corruption in the management of mining business permits (IUP) for tin mines in Bangka Belitung between 2015 and 2022 (Kristanto & Osmawati, 2022). The case involved several dozen companies and several government officials, demonstrating significant abuse of authority (Djatmiati & Santoso, 2020). The corruption case is closely related to personal motives and abuse of power by government officials. This abuse of power often occurs due to decision-making and actions that exceed the authority regulated by the law (Sari & Sumiati, 2020).

Abuse of power in the issuance of IUPs is addressed through a combination of criminal law and administrative law, creating a comprehensive system of supervision and ensuring that mining activities are not only economically profitable but also socially and environmentally responsible. Legal evaluation of these cases is important to understand the source of the problem and find an effective solution (Hira et al., 2022). Mining industry corruption causes financial losses for the country and hinders sustainable development (Marliana & Marini, 2022). Based on this context, the author is interested in conducting research on "Analysis of Corruption in the Mining Extractive Industry and Its Impact on the Sustainable Development of the State." (Skandiva & Harefa, 2021).

LITERATURE REVIEW

Corruption in the Mining Extractive Industry

Corruption within the mining extractive industry often manifests in various forms, including bribery, falsification of documents, and abuse of power. According to Tirole (2017), the high economic value of natural resources can attract corrupt practices as parties seek to gain undue advantages in obtaining permits or contracts. Cukierman and Lonti (2021) highlight that such corrupt practices typically involve both government officials and mining companies, seeking to bypass regulations and secure lucrative deals through illegal means.

Korstanje (2022) emphasizes that corruption in the mining sector is frequently systemic, which undermines institutional integrity. Case studies from various countries illustrate how corruption can hinder reform efforts and reduce transparency and accountability in resource management (Haggard & Tiede, 2020). This systemic nature of corruption makes it particularly challenging to address and eradicate, as it often becomes entrenched in both institutional and cultural practices.

Regulatory Framework in Indonesia

Since the 1998 reform period, Indonesia has implemented several regulatory changes to increase transparency and reduce corruption in the mining sector. The enactment of Law No. 4 of 2009 on Mineral and Coal Mining marked a significant shift from the previous contract-based system to a more transparent permit-based system. This law was designed to enhance governance and oversight by introducing clearer processes for obtaining mining business permits (Bappenas, 2019).

According to Sari and Sumiati (2020), Law No. 4/2009 introduced several mechanisms to improve transparency and accountability, including mandatory reporting requirements for companies and revenue-sharing arrangements with local governments. Despite these

improvements, as noted by Wahyudi (2021), challenges remain in the effective implementation of these regulations. The complexities and ambiguities in regulatory frameworks can still create opportunities for corrupt practices.

Impact of Corruption on Sustainable Development

Corruption in the mining industry can significantly impact sustainable development. Corruption often leads to inefficient investment decisions and unsustainable projects. Bebbington and Bury (2019) argue that corrupt practices in the mining sector frequently result in resource misallocation and environmental degradation, undermining the long-term sustainability of these projects. Meyer (2021) further notes that corruption can exacerbate social inequalities and environmental damage, particularly in communities directly affected by mining activities.

Brunnée and Toope (2020) highlight that corruption can damage a country's reputation and deter long-term investment. The lack of trust in institutional processes and governance structures due to corruption can lead to reduced foreign direct investment and hinder economic growth. Fagan and Taylor (2022) add that the negative impact of corruption on investor confidence can be particularly detrimental in the resource extraction sector, where transparency and regulatory stability are crucial for attracting and maintaining investment.

RESEARCH METHOD

The research methodology for examining corruption within the mining extractive industry employs a combination of case study analysis and normative analysis. This approach is designed to provide a comprehensive understanding of both the manifestations of corruption and the effectiveness of regulatory frameworks in addressing these issues.

Data Collection Scenario

The case study analysis involves the following steps:

a. Selection of Cases: Identifying and selecting notable cases of corruption within the mining sector. This selection is based on the significance of the case, the impact on the sector, and the availability of comprehensive documentation.
b. Documentation Review: Collecting and reviewing detailed reports, court documents, and other relevant materials related to each case. This includes analyzing investigative reports, judicial decisions, and media coverage.
c. Thematic Analysis: Organizing the data into themes to identify patterns and relationships. This involves coding the data and interpreting the key themes that emerge from the case studies.

Data Collection Scenario

The normative analysis involves:

a. Regulatory Review: Examining laws, regulations, and policies related to the mining industry. This includes primary legal documents such as Law No. 4 of 2009 on Mineral and Coal Mining, as well as secondary regulations and amendments.
b. Policy Evaluation: Analyzing how these regulations are implemented in practice. This involves reviewing official government reports and evaluations of regulatory effectiveness.

Data Collection Methods

Documentation Studies

1. Sources: Secondary data is collected through documentation studies. The types of documents include:

a. Official Government Reports: Reports on mining sector performance and corruption, including annual reports and investigative findings.
b. Laws and Regulations: Texts of relevant laws, regulations, and policy documents governing the mining industry.
c. Scientific Journals and Articles: Research articles, books, and academic papers discussing corruption in the extractive industry.

2. Analysis: Data from these documents is analyzed thematically to understand the regulatory context and effectiveness.

Thematic Analysis

Data Integration: Data from both the case studies and document reviews are integrated and analyzed thematically. This process involves identifying and organizing key themes to understand patterns and relationships in the corruption within the mining industry.

FINDINGS AND DISCUSSION

Status Quo of Mining Regulations in Indonesia

Article 33 of the 1945 Constitution of the Republic of Indonesia provides a legal basis that regulates the way in which the management and utilization of natural resources, including minerals and coal, are regulated in this article. The article emphasizes that the use of natural resources by the state must be conducted as much as possible for the welfare of the people, with the aim of improving the welfare and prosperity of the people (Hartana, 2017). Article 33 of the 1945 Constitution The article also gives the government the authority to control and regulate the use of natural resources must follow the rules of democratic economy, solidarity, independence, and environmental sustainability as the legal basis. Thus, the government has the authority to regulate the use of natural resources efficiently and sustainably, as well as maintain equivalence between economic, environmental, and community interests (Ika, 2017).

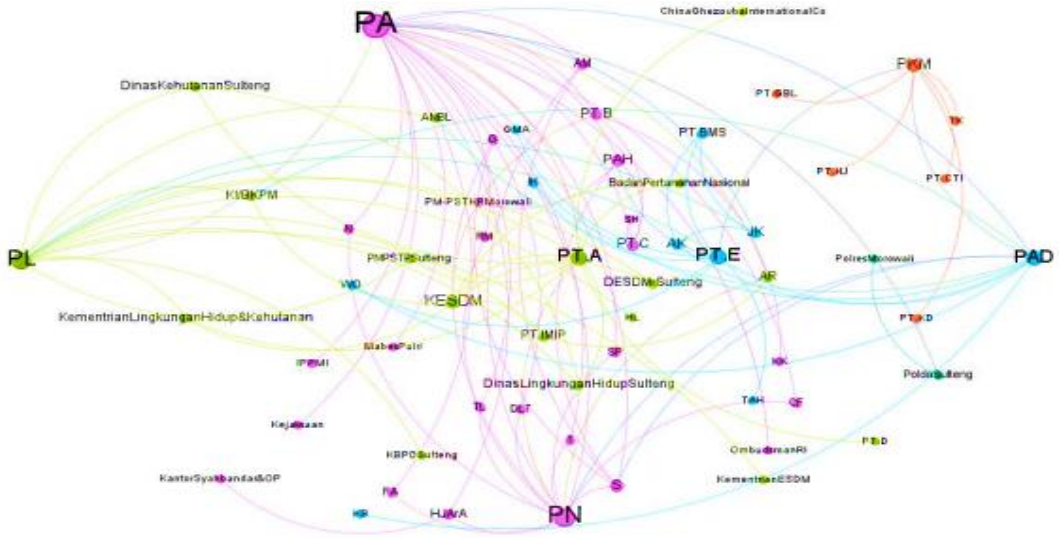

Figure 1. Example of a Network Map of Nickel Mining Actors PT. A in Morowali Regency

Previous contract rules provided an opportunity to change the terms and conditions of each party bound by the contract. However, foreign investors receive more favourable conditions, including guaranteed security throughout the life of the contract, thus providing certainty and security for them in running the mining industry. On the other hand, Law Number 4 of 2009 sets

the deadline for Mining Business Permits (IUP). In the context of the mineral mining industry, IUP is conducted through an auction process for mining areas determined by the Government. Thus, the operational life of the mine is determined and updated regularly and is provided through a more transparent and open procedure (Rusolono et al., 2015).

Authority for Licensing and Management of Mining Extractive Industries

Ministry of Energy and Mineral Resources (MEMR)

The Energy and Mineral Resources Office grants permits for mines located in waters outside the 12-mile zone. It is important to note that the Ministry of Energy and Mineral Resources has the task of delegating the authority to issue this permit. For example, the Ministry of Energy and Mineral Resources has delegated the authority of the Director of Minerals and Mining through the Decision of the Minister of Energy and Mineral Resources. In addition, the Minister of Energy and Mineral Resources has also delegated this authority to the Investment Coordinating Board (BKPM) through regulations from the Ministry of Energy and Mineral Resources Number 25 of 2015. Thus, the Minister of Energy and Mineral Resources ensures that the process of issuing mining permits is conducted effectively and transparently, as well as ensuring that the granting of permits is conducted based on clear and environmentally sound regulations.

The Minister of Energy and Mineral Resources has a role in supervising the licensing process at the provincial level. ESDM is responsible for conducting audits and assessing compliance with the Mining Business Licenses granted, as well as revoking IUPs that do not meet the requirements for Clean and Clear (CnC) status. In this process, the Ministry of Energy and Mineral Resources of the central and regional governments. IUP compliance by paying attention to aspects such as environmental management, effective use of technology, and supervision and control of mining activities. They also consider the involvement of the local community and resource conservation efforts; the MEMR will revoke IUPs that do not meet the requirements of CnC status (Hayati, 2019).

Environment and Forestry Service

The Environment and Forestry Service has a broad task in making and publishing regulations and rules regarding environmental management, as well as monitoring and controlling environmental impacts. In granting mining permits, the Ministry of Environment and Forestry collaborates with the Minister of Energy and Mineral Resources to ensure that forest and conservation areas are protected from mining activities that can harm the environment (Redi & Marfungah, 2021).

The Ministry of Environment and Forestry has an important role in supervising and managing natural resources sustainably and paying attention to the environment. In the synthesis, the Ministry of Environment and Forestry plays a central role in controlling and supervising nature management, including forest and conservation areas, and ensuring that mining activities are conducted with environmental and conservation aspects. Thus, the Ministry of Environment and Forestry plays a central role in supervising and managing natural resources with approved sustainable principles. Thus, the Ministry of Environment and Forestry plays a central role in supervising and managing natural resources in a sustainable way and considering environmental factors (Sherly et al., 2021).

Provincial Government

The Ministry of Environment and Forestry plays a central role in supervising and managing natural resources and paying attention to environmental aspects. In the synthesis, the Ministry of

Environment and Forestry plays a role in regulating and supervising the management of natural resources, including forest and conservation areas, as well as ensuring that mining activities are conducted with attention to environmental and conservation aspects. Thus, the Ministry of Environment and Forestry plays a central role in supervising and managing natural resources sustainably and environmentally soundly (Kowaas, 2022).

Problems of Mining Business Licenses and Their Relationship with Corruption Crimes

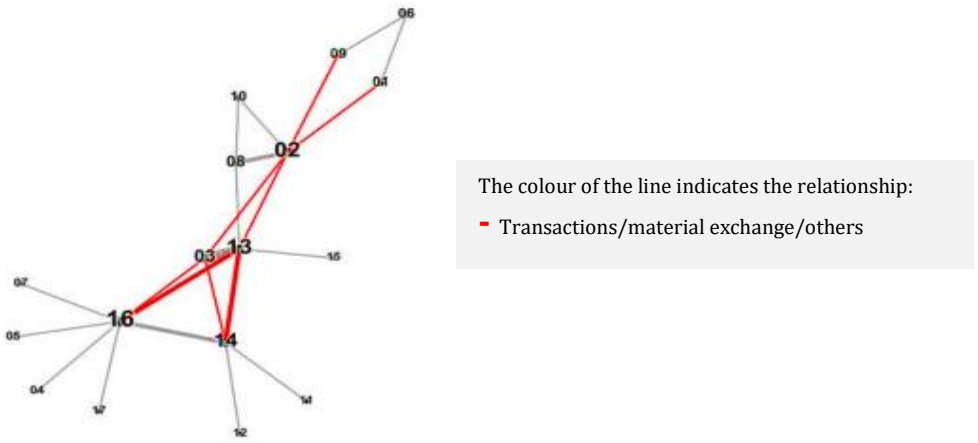

Figure 2. Analysis of exchange networks in mining corruption

Corruption networks in Indonesia, especially in the context of natural resource corruption, are often linked to the involvement of entrepreneurs, regional heads, and bureaucratic structures involved in corrupt practices. However, law enforcement against corruption cases tends to target only the main actors. In fact, beyond the main actors, there are also supporting actors who play an important role in corruption networks and activities. The involvement of these supporting actors is no less significant than the main actors in perpetuating corruption activities (Azizah, 2022).

Corruption cases in the mining sector often arise due to overlapping in the manufacturing process (IUP). The factors that cause this overlap include the lack of a regional map and a detailed regional map. In synthesis, overlap in the process of granting IUPs plays a vital role in supervising and managing natural resources in a clear, sustainable and environmentally friendly way, as well as a lack of coordination between the central government and local governments. Thus, this overlap can allow opportunities for corruption and abuse of authority, which have the potential to disrupt the sustainability of honest and transparent government.

CONCLUSIONS

Indonesia's natural resource management is guided by the 1945 Constitution, which emphasizes the welfare of the people. Law Number 4 of 2009 on Mineral and Coal Mining (MINERBA) has shifted from a contract-based system to a more transparent mining business licensing system. This law aims to improve resource management and environmental oversight by involving both central and local governments. Despite these advances, challenges such as maladministration and corruption persist, particularly in the issuance of mining licenses. Overlapping authorities and unclear jurisdictional boundaries often lead to abuses of power and corruption. Further improvements in mining regulations are necessary to ensure sustainable and transparent governance.

LIMITATION & FURTHER RESEARCH

Research Limitations

This study has limitations that affect its findings. The case study approach may not capture all corrupt practices and can introduce bias based on case selection. Reliance on secondary data might result in outdated or incomplete information, and expert interviews may reflect subjective viewpoints rather than a comprehensive range of experiences. These factors emphasize the need for cautious interpretation and cross-validation of results.

Further Research

Future research should expand case studies to include a wider range of mining operations, conduct longitudinal studies on corruption and regulatory effectiveness, and use primary data for deeper insights into operational practices. Comparative studies across countries and exploring technological innovations for enhancing transparency could also offer valuable strategies for improving governance and sustainability in the mining sector.

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