

## THE PANCASILA PARADIGM IN THE APPLICATION OF LEGAL CERTAINTY TO ENVIRONMENTAL MANAGEMENT IN RECLAMATION AND POST-MINING GOVERNANCE IN THE MINERAL AND COAL SECTOR

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### Abstract

That the provisions of Article 33 paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia, which contain the principle of control over branches of production that are important to the state and that control the livelihoods of many people, must be understood in the context of how the state has a role and function to regulate (*regelendaad*), manage (*bestuursdaad*), manage (*beheersdaad*), and supervise (*toezichthoudensdaad*) these branches of production for the greatest prosperity of the people. Furthermore, Article 33 paragraph (4) states: "The national economy shall be organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental awareness, independence, and maintaining the balance of progress and national economic unity." In implementing the principle of environmental awareness, the process of national and regional development throughout Indonesia must be environmentally conscious, namely a good and healthy environment as stipulated in Article 28H paragraph (1) of the 1945 Constitution. This provision ensures that the 1945 Constitution is a "green constitution" oriented towards a good and healthy environment. This orientation towards the environment is not only related to land and water or earth and water and all the wealth contained therein, but must also be controlled by the state and utilized for the greatest benefit of all Indonesian people. Therefore, the 1945 Constitution is not only green-oriented but also blue-oriented as "*the green and blue constitution*," which must be a perspective or vision reflected in all national and regional development activities. Efforts to protect and manage the environment are systematic and integrated efforts undertaken to preserve the function of the environment and prevent pollution and/or damage to the environment, which includes planning, utilization, control, maintenance, supervision, and law enforcement. This is particularly relevant to legal certainty in the implementation of environmental aspects by maintaining the success of reclamation and post-mining activities in IUP/IUPK areas to a 100% success rate, including changes to environmental permits made at the time of renewal so that there is no interruption to mining activities, and mining disturbances (including those without permits) that have an impact on environmental damage can be minimized.

**Keywords:** The Pancasila Paradigm, Legal Certainty, Reclamation and Post-Mining, Environmental Management of Mineral and Coal Mining (Minerba)

### INTRODUCTION

Indonesia is blessed by God Almighty with abundant natural resources, including minerals and coal. Based on Article 33 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), it is stated that: (1) The economy shall be organized as a joint venture based on the principle of kinship; (2) Branches of production that are important to the state and that control the livelihoods of many people shall be controlled by the state; (3) The earth, water, and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people; (4) *The national economy shall be organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental awareness, independence, and maintaining the balance of national economic progress and unity.*

Jimly Asshiddiqie (2020), is intended to ensure the continuity of life with the natural carrying capacity from one generation to the next, which is universally agreed upon through various international conventions as the principle of sustainable development. This principle is important to ensure that the national development process does not take a short-term perspective in pursuit of short-term profits and state revenues at the expense of the natural carrying capacity. Therefore, the principle of sustainable development cannot be separated from the concept of a healthy and good environment, which has also been adopted as a fundamental human right to a good and healthy environment in Article H paragraph (1) of the 1945 Constitution. Meanwhile, the principle of environmental awareness requires that the process of national and regional development throughout Indonesia must be environmentally conscious, namely a good and healthy environment as stipulated in Article 28H paragraph (1) of the 1945 Constitution. This provision ensures that the 1945 Constitution is a "green constitution" oriented towards a good and healthy environment. This orientation towards the environment is not only related to land and water or the earth and water and all the wealth contained therein, but must also be controlled by the state and utilized for the greatest benefit of all Indonesian people. Therefore, the 1945 Constitution is not only green-oriented but also blue-oriented as "*the green and blue constitution*" which must be a perspective or vision reflected in all national and regional development activities (Jimly Asshiddiqie, 2020).

The mandate of Article 33 paragraphs (3) and (4) of the 1945 Constitution as the basis for the control and management of natural resources based on economic democracy. This is because economic democracy requires a systemic approach, especially in the management of natural resources (mining). The enactment of the Minerba Law cannot be separated from the function of the state in the economic sector as expressed by *W. Friedman*, whereby the function of the state in the economic sector covers four (4) aspects, namely:

- 1) As a provider of public welfare. This function is related to *the welfare* state, where the state is required to set minimum standards for life in general and forms of social security. The minimum standards that have been set must be used as a measure to gauge the level of public welfare.
- 2) As a regulator. Indonesia, as a welfare state (*verzorgingsstaat*), must be able to position itself as a good regulator, so that all policies must be translated into the form of statutory provisions.
- 3) As an entrepreneur. This function is very urgent and dynamic, enabling the state to act as an entrepreneur through the establishment of *state-owned corporations* and *private corporations*. In carrying out its function as *an entrepreneur*, as well as in granting licenses to private parties, the state must focus on efforts to improve the welfare of its people. Therefore, the state's function as *an entrepreneur* must be governed by regulations that are tailored to its scope and level of authority.
- 4) As a supervisor (*umpire*). In performing its supervisory function, the state must comply with the provisions of laws and regulations. The regulations created must be able to formulate standards that prioritize fairness in the performance of the economic sector. Performing this supervisory function is not easy, because the state will face a "*conflict of interest*." Therefore, the standards of fairness set by the state must be used as a reference in carrying out the supervisory function.

Of the four functions of the state in the economic sphere, the most essential function is that of regulator. Therefore, every piece of legislation produced must reflect the functions of *provider*, *entrepreneur*, and *umpire*.

The state, through the Central Government, is responsible for the use of minerals and coal in the territory of the Unitary State of the Republic of Indonesia through the optimal, effective, and efficient management and utilization of minerals and coal to encourage and support the development and independence of the national industry based on mineral and coal resources.

Every country that adheres to the rule of law always applies three basic principles, namely *the supremacy of law, equality before the law, and due process of law*. The state has an obligation to serve every citizen and resident in fulfilling their basic rights and needs in the context of public service, which is mandated by Article 28 paragraph (1) of the 1945 Constitution. This article states that "every person shall have the right to recognition, guarantee, protection, and certainty of just law, as well as equal recognition before the law."

The direction of ESDM development policy is guided by the paradigm that energy resources should not be used solely as export commodities, but as capital for national development to achieve energy security and independence. The energy independence and security referred to are as follows:

- 1) Energy independence is the guaranteed availability of energy by maximizing the potential of domestic sources; and
- 2) National energy *security* is a condition of *guaranteed* energy availability, public access to energy at *affordable* prices in the long term, while still paying *attention* to environmental protection.

Mineral and coal resources currently serve as *the backbone* of national development, particularly in terms of their contribution to state revenue, investment, the creation of economic multiplier effects, the provision of employment and job opportunities, and the development of surrounding regions. In addition, this sub-sector has proven to perform well despite global economic pressures, environmental issues, and fluctuating commodity prices. Given that minerals and coal are non-renewable resources, they must be managed wisely, sustainably, and with environmental awareness.

In this case, the government seeks to utilize its power over the country's wealth resources for the greatest prosperity of the people. In this case, minerals and coal are Indonesian commodities that are used as sources of state revenue through tax revenue and non-tax state revenue (PNBP) from the Mineral and Coal Sub-Sector. Based on data from the Ministry of Energy and Mineral Resources, the amount of revenue from mineral and coal mining as of December 31, 2023, in the form of non-tax state revenue (PNBP) reached IDR 172,961,262,988,706, or IDR 172.96 trillion, which is 202.91% of the state budget target.

For your information, based on data from the Geological Agency of the Ministry of Energy and Mineral Resources, in 2020, Indonesia's total coal resources and reserves amounted to 143.7 billion tons and 38.8 billion tons, respectively. When compared to the total global coal reserves of 1.074 billion tons, Indonesia's coal reserves account for approximately 4% (four percent) of the world's coal reserves, ranking sixth in the world. This gives Indonesia an important role in the global coal mining industry. Indonesia had coal reserves of 36.28 billion tons in 2021. These reserves consist of 12.92 billion tons of low-calorie coal, 20.69 billion tons of medium-calorie coal, 2.03 billion tons of high-calorie coal, and 0.64 billion tons of very high-calorie coal.

The government has passed regulations in the form of legislation governing all mining permits from upstream to downstream, which in this case is regulated in Law Number 3 of 2020 concerning amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. It is hoped that these regulations will achieve the state's objective of obtaining state revenue from mining activities, which can be used as capital for development for the welfare of the people.

The management and utilization of minerals and coal are part of the implementation of mineral and coal mining business activities in accordance with sustainable development goals (SDGs), both in the medium and long term of national development.

Therefore, the author will further examine the substance of this regulation/law that has the potential to harm the community and the environment, as stated in the objectives of the national economy and social welfare: "The national economy shall be organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental awareness, independence, and maintaining a balance between progress and national unity."

To fulfill this management and supervision, a sound legal mechanism and instrument is needed, namely a mining business permit. The granting of mining permits is an authority that must be exercised in the context of administrative order and legal certainty. The government's authority in this matter is related to its right to issue permits in the mining sector as regulated by the Mineral and Coal Law.

Environmental protection and management efforts *hidup* are efforts systematic and integrated efforts undertaken to preserve environmental functions and prevent pollution and/or environmental damage, including planning, utilization, control, maintenance, supervision, and law enforcement.

To that end, it is the duty of the Government to exercise its functions and authority to improve the welfare of its citizens its people as stated in the preamble to the 1945 Constitution, paragraph 4, and the main body of the 1945 Constitution, namely Article 28 (h) paragraph (1) and Article 33 paragraph (3), and (4) of the 1945 Constitution, the implementation of national development activities across various sectors will always have direct or indirect impacts on the environment, both positive and negative effects on the quality and functions of the environment.

On the other hand, the management of natural resources such as mining/minerals and coal has given rise to social problems in the form of conflicts between communities and mining companies, economic disparities, environmental damage/disasters due to mining management that does not comply with regulations, and impacts on public health.

In line with *Joseph E Stiglitz's* view, the *resource* curse is a paradox known in economics whereby countries with abundant natural resources actually have poorer welfare and lower economic growth than other countries. Simply put, the "resource curse" explains the failure of countries to translate their natural wealth into a driver of public welfare (Macartan Humphreys et al., 2007).

Some of the negative impacts often associated with the resource curse and the mining industry include:

- 1) Environmental destruction: Mining activities tend to cause environmental damage such as deforestation, soil degradation, and water and air pollution. This can have a negative impact on ecosystems, affecting human and animal life.
- 2) Dependence on the mining industry: Countries or regions that rely too heavily on the mining industry may experience economic instability, underdevelopment of other sectors, and difficulty adapting to changes in commodity prices.
- 3) Social and political conflicts, inequality in the distribution of profits from the mining industry, often cause social and political conflicts. Economic inequality and access to resources can lead to dissatisfaction, tension between groups, and political instability.
- 4) Corruption and abuse of power: The high economic value of natural resources often leads to increased levels of corruption and abuse of power. Corrupt practices can hinder development and result in social injustice.
- 5) Unsustainable economic dependence, when countries or regions are overly reliant on the mining industry, makes them more vulnerable to global commodity price fluctuations. This economic uncertainty can hinder economic diversification and negatively impact long-term stability.

The challenges faced in the process of managing minerals and coal for national development require the following efforts: harmonization and synchronization of laws and regulations, acceleration of licensing services, collection and storage of data and information, funding and access to regions, acceleration of downstream industry development, *improvement of reclamation and post- al preparation of mines*, increase in the number and competence of human resources, improvement of inventory and management as well as utilization of associated minerals and/or rare earth metals, and increased use of domestic products and components.

From a regulatory perspective, mining law is closely related to environmental law because every mining business, whether general mining or oil and gas mining, is required to maintain the carrying capacity and the capacity of the environment.

Not only does it cause physical damage to the environment, the adverse impact of the coal mining industry also violates human rights and social *justice, welfare and equality*, and *labor exploitation*. For this reason, mining companies must immediately plan post-mining activities in order to address social and community matters. In short, this industry seems to have "two faces": one face shows prosperity, while the other shows the negative image caused by the coal mining industry (Dody Prayogo, 2008).

Currently, companies are required not only to focus on profits in their operations, but also to pay attention to negative impacts that disrupt social life and the environment. To achieve *sustainable growth*, there are three important aspects that companies must fulfill, known as the *Triple Bottom Line (TBL)* concept: *people, planet, and profit*.

The *people* aspect explains the importance of building a business that supports human resources. The *planet* aspect emphasizes the importance of preserving natural resources in the company's business activities. Furthermore, the *profit* aspect provides guidance for companies to generate profits in their business activities.

Companies can actualize the TBL concept in their *Corporate Social Responsibility (CSR)* programs (Hasyir, 2016). Companies in the mining sector should make social and environmental responsibility part of their business principles. In addition, companies should also disclose their environmental activities to demonstrate their seriousness in addressing environmental issues. According to Hasyir (2016), mining companies implement social responsibility principles in accordance with standards set by the *Global Reporting Initiative (GRI)* and adopt several international standards such as *ISO 1400* on Environmental Management in implementing CSR. Well-implemented CSR will improve environmental sustainability and maintain the company's existence (Sunaryo, 2013).

This guarantee does not eliminate the company's obligation to finance and carry out reclamation and post-mining activities in accordance with the reclamation and post-mining plan documents prepared by the company.

Philipus M. Hadjon argues that the principles of legal protection for the people of Indonesia are the principles of recognition and protection of human dignity based on Pancasila and laws that are also based on Pancasila (Riza Anggun & Listya Irawan, 2016). The essence of legal protection for KK and PKP2B holders based on Article 169A of the Minerba Law is a protection that provides assurance to KK and PKP2B holders that they will obtain an extension through an IUPK in accordance with the provisions of the law.

The Minerba Law does not provide legal protection for KK and PKP2B because the law does not provide legal certainty regarding transitional provisions. While Article 169A of the Mineral and Coal Mining Law stipulates that extensions will be guaranteed through IUPKs and Article 169B stipulates that the Minister may reject extension requests, the Mineral and Coal Mining Law does not further regulate the legal remedies available to KK and PKP2B holders whose extension requests are guaranteed against rejection by the relevant Minister. This is a right that must be obtained based on the mandate of the law itself, which guarantees extension (Wijayanta, 2014).

Setiono stated that legal protection is an action or effort to protect the public from arbitrary acts by authorities that are not in accordance with the law, in order to create order and peace so that people can enjoy their dignity as human beings (Setiono, 2004). This means that KK and PKP2B holders whose extension requests are guaranteed by the Minerba Law will have no legal protection if the relevant Minister subsequently rejects their extension requests.

The environmental policy of is based on Law No. 32 of 2009 as the *general environmental law* provisions resources, natural resources sectoral, including mineral and coal mining. Mineral and coal mining activities have a significant serious impact on the environment life, so that it is considered holistically with subject to the provisions of Law No. 32 of 2009 on sectoral policies resources natural resources. There is an obligation in the operation of mineral mining and coal mining to carry out the function of control of the occurrence of pollution and/or damage to the environment that is integrated with the spatial planning system of life, from the designation of mining areas until the obligation to prepare environmental documents, as well as the obligation to carry out reclamation and post-mining activities.

Vulnerabilities in implementation create opportunities to not carry out or avoid obligations in environmental monitoring and control activities, resulting in weak norms, both in terms of procedure and legal objectives, which ultimately lead to losses for the state that must be borne by the community. The problem with these vulnerabilities is that there are at least *two main issues* in the regulation of reclamation and post-mining policies:

- a) The regulation of reclamation and post-mining obligations, as well as the placement of guarantee funds, is not a primary prerequisite for mining operations. Instead, the various provisions available provide ample room to avoid these obligations.
- b) The regulations on reclamation and post-mining guarantees are not formulated with sufficient quality, so they are unable to serve as effective instruments for protecting the environment. Instead of strengthening the objectives of the guarantee regulations, various technical procedures actually weaken them.

Legal certainty regarding environmental protection and management in the implementation of reclamation and post-mining guarantees by business entities holding mining permits (IUP) is carried out in an accountable and transparent manner. Therefore, the implementation of Law No. 3 of 2020 concerning Minerals and Coal refers to the legal theory presented by *Gustav Radburck*, so that: (1) It is important to improve the governance of mineral and coal mining in Indonesia, namely by ensuring that IUP/IUPK holders comply with reclamation and post-mining activities; (2) The large number of mining permits that have been approved and issued by the government has had little impact on the awareness and compliance of mining companies in terms of placing guarantee funds and implementing reclamation and post-mining activities; (3) The placement of Reclamation Guarantee Funds does not eliminate the obligation of mining business actors to carry out reclamation activities.

#### **Problem Formulation**

1. How to regulate legal norms for the settlement of environmental management, reclamation and post-mining to realize legal certainty in mining management in accordance with article 99 of Law Number: 3 of 2020, with article 33 paragraph (4) of the Constitution of the Republic of Indonesia of 1945: The national economy is organized based on economic democracy with the principles of togetherness, fair efficiency, sustainable with an environmental perspective, independence, and with maintaining the balance of progress and national economic unity?
2. What are the environmental management, reclamation and post-mining activities implemented by Business Entities Holding IUP and/or IUPK regulated in Law No. 3 of 2020?
3. What is the ideal expected in the construction of the regulation of environmental management, reclamation and post-mining activities by Business Entities to realize legal certainty?

Apart from the three main problems above, it is important to be tested from the aspect of legal philosophy, namely: 1) What is the role of the government in preventing environmental damage due to mining activities based on Law Number: 32 of 2009 concerning environmental protection and management?; 2) What are the legal obstacles for the government in overcoming environmental damage due to mining activities?

#### **METHOD**

The method employed in this research is normative law research, which encompasses studies on the fundamental principles enshrined in Pancasila, the 1945 Constitution of the Republic of Indonesia, and national law, utilizing philosophical, historical, legislative, conceptual, and analytical approaches. This research uses normative case studies in the form of products of legal behavior. Thus, this normative legal research focuses on the applicability of positive law, legal principles and doctrines, legal findings in *in concreto* cases, legal systems, the level of synchronization, and comparative law and legal history.

This study focuses on the legal norms governing Mineral and Coal Mining in the granting of mineral mining business licenses in Indonesia as referred to in Law Number 3 of 2020, including aspects of legal certainty and ease of investment, related to guarantees for the use of space and areas for mining activities, the extension of KK/PPK2B to IUPK, and the settlement of land rights. And specifically, the focus will be on Environmental Management, which includes the obligation of reclamation and post-mining activities to a 100% success rate; the balance between the fulfillment of land that has been opened and land that has been reclaimed.

The enactment of Law No. 3 of 2020 concerning Mineral and Coal Mining is a fundamental and crucial part of the management of the mineral and coal sector regarding the determination of Mining Areas by considering the environmental impact that will occur if this regulation remains in place, as well as evaluating and reconstructing governance in determining Mining Areas based on the objectives of *Sustainable Development* in points 14 and 15 as a form of sustainable terrestrial and marine ecosystems in the future.

Therefore, the following issues need to be evaluated: How will Law No. 3 of 2020 on Mineral and Coal Mining affect the determination of mining areas for future environmental sustainability based on the *Sustainable Development Goals* (SDGs)? And what are the implications of Law No. 3 of 2020 on Mineral and Coal Mining for the community and the environment?

### **Theoretical Framework**

Changes in mining areas under the provisions of the law have the potential to change spatial planning, which will also have an impact on terrestrial and marine ecosystems within the framework of Sustainable Development Goals (SDGs), as referred to in goal 15 of *the Sustainable Development Goals* (SDGs).

The terrestrial ecosystems (*Life on Land*) referred to in SDG 15 are to protect, restore, and promote the sustainable use of terrestrial ecosystems. In addition, it aims to sustainably manage forests, halt desertification, restore degraded land, and halt biodiversity loss. (SDGs) aims to maintain continuous improvement in the economic welfare of the community and to maintain the sustainability of social life. In addition, this program also aims to maintain the quality of the environment and carry out inclusive development and governance that can maintain the improvement of quality of life from one generation to the next.

Conceptually, the substance of legislation relating to legal relations concerning control of natural resources is no longer in line with its spirit, because the provisions contained therein have given the government enormous power to regulate and manage everything related to natural resources. The interests of entrepreneurs/business actors will always be prioritized, so that the interests of the communities surrounding the exploited natural resources are neglected, namely environmental management, reclamation, and post-mining, even though the government should be guided by Article 33 Paragraphs 3 and 4 of the 1945 Constitution, which is the highest source of law in the management and exploitation of natural resources in Indonesia.

Article 33 of the 1945 Constitution of the Republic of Indonesia stipulates that the economic and social rights of citizens are protected by the constitution through the involvement or role of the state. In other words, Article 33 of the 1945 Constitution of the Republic of Indonesia is a provision governing the involvement or active role of the state in taking action to *respect, protect, and fulfill* the economic and social rights of citizens.

The scientific method, as one of the characteristics of research activities, places conceptual and theoretical frameworks as the basis for its activities. In research design, conceptual and theoretical frameworks are *blueprints* and frameworks for thinking.

A conceptual framework is a provisional explanation of the phenomena that are the subject of our inquiry (Damen et al., 2009). A conceptual framework is the way we argue in formulating hypotheses. The argument must be analytical, logical, systematic, and use relevant theories. Research on licensing in mining matters is limited to the perspective of State Administrative Law. This branch of law is referred to in foreign-language books as *droit administratif, verwaltungsrecht, administratiefrecht, berstuursrecht, administrative law, or public administrative law*. According to P.M. Gaudemet, state administrative law is part of internal public law.

Maria S.W. Sumardjono states that "concepts are abstract elements that represent classes of phenomena within a field of study. Concepts that describe abstractions from theory are called 'conceptual frameworks'. Conceptual frameworks describe the relationships between specific concepts to be studied." In normative legal thinking, law is a reflection of society. This construct places law in a position where it is always overshadowed by society. Law is both dynamic and static, or static and dynamic. This means that law appears to move just as society itself moves, but in reality, it is still or at least appears to be still. Conversely, law appears to be still, but in reality, it moves in accordance with the movements of society. This dynamic-static aspect suggests a form of intersection between law as a normative domain and society as an empirical domain. The two are mutually reflected through what is referred to in legal terminology as the eternal correlation between *das sollen* and *das sein*.

Understanding the correlation between law and social awareness is not a singular form of thinking, but rather a plural one. Thus, this pluralistic thinking technique is a form of multidisciplinary method in which the normative realm is processed together with empirical sciences such as sociology, politics, and anthropology. Finally, the prescriptive aspects of this processing will be constructed.

#### **a. Grand Theory**

In research used as Grand Theory, namely the legal objectives formulated by Gustav Radbruch, there are three values of identity as follows: 1) The principle of legal certainty (*rechtmatigheid*); 2) The principle of legal justice (*gerechtigheit*); 3) The principle of legal utility (*zwechmatigheid* or *doelmatigheid*).

Legal certainty is legal protection (*justiciability*) against arbitrary actions, which means that a person will be able to obtain what is expected in certain circumstances. For example, a person who violates the law will be held accountable for their actions through the court process, and if found guilty, they will be punished. Without legal certainty, people will not know what to do and this will ultimately cause unrest (Sudikno Mertokusuno, 1986). Legal certainty can also be interpreted as a guideline based on the law on whether or not to carry out an activity. The tangible form of legal certainty is the implementation or enforcement of the law against an action regardless of who committed it. With legal certainty, everyone can predict what will happen if they commit a certain legal action.

Certainty is necessary to realize the principle of equality before the law without discrimination (Moh Mahfud, 2009). Legal certainty is also closely related to the principle of legality, whereby no one can be punished for a particular act as long as there is no law governing it.

*Gustav Radbruch* stated that law is the bearer of justice, and justice has both normative and constitutive characteristics for law. It is normative because positive law is based on justice. It is constitutive because justice must be an absolute element of law; without justice, a rule cannot be considered law (Tanya et al., 2013). In addition to legal certainty, law enforcement must also benefit society. Law is for people, so the implementation or enforcement of law must benefit or be useful to society.

Normative legal certainty occurs when a law is drafted and enacted with certainty, because it is clear and logical, so that it does not give rise to doubt due to multiple interpretations, thereby avoiding conflicts or contradictions between norms. Normative conflicts arising from legal uncertainty can take the form of norm contestation, norm reduction, or norm distortion.

According to *Hans Kelsen*, law is a System of Norms. Norms are statements that emphasize the aspect of "should" or *das sollen*, including several rules about what should be done. Norms are the products and actions of deliberate human beings. Laws containing general rules serve as guidelines for individuals' behavior in society, both in their relationships with other individuals and in their relationships with society. These rules serve as boundaries for society in imposing burdens or taking action against individuals. The existence of these rules and their enforcement create legal certainty.

#### **b. Middle Theory**

*Roscoe Pound* was one of the leading legal scholars in the *sociological jurisprudence* and *pragmatic legal realism* schools of thought. Another prominent theory is *Roscoe Pound's* theory of interest, which seeks to transform law from a theoretical construct or *law in books* into *law in action* or *law in reality*. Therefore, *Roscoe Pound*, who supported *pragmatic legal realism*, stated that the real law is the law that is enforced.

According to *Roscoe Pound*, certain interests are considered by society to be worthy of legal protection. *Roscoe Pound* also stated that not all interests must be protected by law. This is because there are social interests that can be protected through religion, aesthetics and morals, and other forms of protection. Regarding the function of law, *Roscoe Pound* stated that the main function of law is to protect interests. These interests are public, social and personal interests.

Protection of these three interests must be balanced. This balance is the essence of justice. Therefore, *Roscoe Pound* created three categories of interests, namely individual interests, public interests, and state interests as the guardian of the interests of its people.

##### 1) *Individual Interests*

*Roscoe Pound's* first theory of interests is individual interests. These individual interests are then equated with private law. The manifestation of these individual interests is in the form of requests, demands, desires, and expectations related to personal interests. *Roscoe Pound* divides individual interests into three groups, namely:

- (1) Personal Interests: freedom of interest, reputation, honor, protection of personal rights, freedom of belief and opinion.
- (2) Domestic Relations: marriage
- (3) Substantive Interests: ownership of assets, freedom of association, and job security.

##### 2) *Public Interest*

*Roscoe Pound's* second theory of interest is public interest. Public interest is equated with public law. The manifestation of public interest is the demands, desires, requests, and expectations of individuals related to political life. Public interest has characteristics and connections with the interests of the state.

##### 3) *Social Interest*

*Roscoe Pound's* next theory of interest is social interest. *Roscoe Pound* defines social interest as the demands, requests, desires, and aspirations of a civilized society that it wishes to realize in its social life. The manifestations of this social interest are health insurance, safety insurance, and security and order. To formulate when these interests become a harmonious balance, *Roscoe Pound* also created a concept that was recognized by other legal thinkers. The concept of *social engineering* became a concept that was considered a central idea of *Roscoe Pound's* overall ideas about law.

Through the concept of *social engineering*, *Roscoe Pound* likened a lawyer to an engineer. When an engineer plans to build a bridge, he will first make plans by gathering the necessary materials. Then, the engineer will adjust to the actual situation on the ground. For *Roscoe Pound*, a lawyer must be able to produce laws that accommodate the needs and interests of the community.

*Roscoe Pound's* opinion/viewpoint has many similarities with the *Interessen Jurisprudence* school of thought. The primacy of logic in law is replaced by the primacy of "the study and assessment of human life (*Lebensforschung und Lebensbewertung*), or more specifically, giving more consideration to the balancing of interests (*balancing of interests, private as well as public interest*). In line with the times, legal science then developed towards *Functional Jurisprudence*. This school of thought, pioneered by *Roscoe Pound*, states that *Jurisprudence is the Eye of the Law*. According to this school of thought, law must also take into account other social sciences, such as psychology, economics, and anthropology (Hartono, 1994). Therefore, it is widely believed today that legal research can no longer use only one method or way of thinking, but must also use a variety of ways of thinking, resulting in multidisciplinary research.

- a) **Axiology:** Seeking truth, justice, freedom, fairness, and identifying abuse of authority in reforms has given rise to the legal sciences of various countries, thereby achieving a "balance" for the purposes of law, namely legal certainty and justice.
- b) **Ontology:** Understanding the essence of law in accordance with the legal rules (social norms) that apply in societies that have a legal relationship with morality to form (reality = legal facts) that exist in accordance with legal rules to "achieve legal reality and social justice."
- c) **Epistemology:** knowing the fundamental nature of law (philosophically) that it gives rise to dialectical reasoning, namely weighing opposing claims, both in debates during the formation of laws and in considering the views and facts presented in judicial proceedings or in negotiation processes, using doctrinal and non-doctrinal research methods and applying a descriptive lens so that the output can contribute to legal science from a perspective.

*Roscoe Pound's* thoughts or ideas about law and its function as a tool for *social engineering* are very important in supporting the development process. However, it should be noted that in striving for positive social change (community development), there will inevitably be various conflicts of interest.

Here, the law serves to resolve conflicts of interest by selecting and recognizing the most important interests. As a result, individual rights and interests can be sacrificed for the sake of order and the public interest. Thus, in *Pound's* view, justice in its true sense, which is related to rights, is difficult to achieve.

Because justice does not justify, for example, the violation of the rights and interests of one person for the sake of a thousand others. In order for justice to be achieved for all parties, and for no one to feel aggrieved, *Pound's* idea, which is indeed necessary, needs to be applied carefully, taking into account individual rights and interests so that order and justice in their true sense can be achieved.

#### **c. Apply Theory**

*Jeremy Bentham* was born in Spitalfields, London on February 15, 1748, and passed his barrister exams in 1768. After celebrating his graduation as a barrister, he returned to *Queen's College* to vote in the parliamentary elections at his university. Shortly before voting, he visited the university library and took a break at the coffee shop in front of the library. It was there that he found a copy of a pamphlet recently

published by Joseph Priestley entitled "*Essay on Government*." In the pamphlet, he found his most famous term, "*The greatest happiness of the greatest number*." (Bentham & Austin, 2003)

*Jeremy Bentham*: The purpose of law and the embodiment of justice is to bring about happiness enjoyed by as many individuals as possible within society/the nation (*the greatest happiness of the greatest number*).

The basic concept of Utilitarianism is generally very simple, namely how to maximize the utility of an action, so that from this process we can enjoy *benefits*, advantages, *pleasure*, and *happiness*.

From the process of maximizing utility, it is also hoped that pain, crime, suffering, or feelings that cause unhappiness can be prevented. This process of maximizing utility is then applied concretely to real actions that occur in society, where in its implementation, the concept of utilitarianism will base its assessment on the question "does this action provide utility to me?"

The author argues that the purpose of the classical utilitarianism concept is not how actions/phenomena/events are used to achieve benefits, but rather to calculate whether actions/phenomena/events have benefits. So, if they have greater benefits, actions/phenomena/events are automatically useful to society and vice versa.

Therefore, *utilitarianism* is more suitable as a tool for ethical evaluation of whether something that happens is useful to society at large or not, using the aforementioned calculation of *pleasure* and *pain*.

This concept of classical utilitarianism was later developed by *Jeremy Bentham* by incorporating the role of law into it (in some literature, *Jeremy Bentham's* development is referred to as "*legal utilitarianism*").

*Jeremy Bentham* shared the same views as classical utilitarianism, but he delved deeper into why *pleasure* and *pain* were used as the yardstick for assessing a particular action/event/phenomenon.

According to him, humans are living beings who are always haunted by feelings of happiness and pain. These shadows will ultimately determine their behavior. For example, by knowing that humans are haunted by these two feelings, we will understand what motivates someone to do something, what underlies someone's hopes and dreams, and we will also know what they will do in the future. Everything (according to him) will definitely be based on happiness for themselves and avoiding pain for themselves.

Therefore, the calculation between *pleasure* and *pain* can be done if there are actions/events/phenomena that society considers morally important, so that if no solution is found to the problem, disorder will arise. Therefore, according to the author, *Jeremy Bentham's* utilitarianism is very relevant when used as a tool for analyzing legal policy. This is because, in addition to social anomalies, the law is also an important part that can shake the moral values of society.

The theory of legal utility/utilitarianism proposed by *Jeremy Bentham*, *John Stuart Mill*, and *Rudolf von Jhering* was a reaction to the concept of natural law in the eighteenth and nineteenth centuries. Bentham criticized the concept of natural law, considering it vague and inconsistent. Bentham emphasized a periodic movement from the abstract, idealistic, and a priori to the concrete, materialistic, and fundamental. According to Bentham, the purpose of law is to provide the greatest benefit and happiness to as many members of society as possible.

The concept places utility as the primary goal of law. The measure is the greatest happiness for the greatest number of people. The assessment of whether this law is fair or not depends heavily on whether the law is able to provide happiness to humans or not. Utility is defined as happiness.

#### 1) *Economics Analysis of Law*

Legal economic analysis is based on utilitarianism pioneered by *Jeremy Bentham*, emphasizing the principle of utility as a doctrine of legal science. If we examine this idea closely, it is actually a middle ground when the law is faced with two conflicting ideas, namely justice and legal certainty.

According to *Richard A. Posner*, *Economics Analysis of Law* is the application of economic principles as rational choices for analyzing legal issues. This theory is rooted in utilitarianism, which prioritizes the principle of benefit over the application of law, and was developed by *Jeremy Bentham* (1748-1832) and *John Stuart Mill* (1806-1873).

In the book *Economic Analysis of Law*, which contains the thoughts of experts such as *Jeremy Bentham* and *Richard Posner*, he describes economic law. Bentham included important elements such as purity, extent, duration, intensity, certainty, fecundity, and propinquity, which he believed could achieve *the greatest happiness for the greatest number*.

According to him, a law can only be recognized as law if it provides the greatest benefit to the greatest number of people. Furthermore, Bentham (Ali, 2009) adds that the purpose of a legal regulation must be able to achieve:

- a) *To provide subsistence* (to provide a livelihood).
- b) *To provide abundance* (to provide sustenance).
- c) *To provide security* (to provide protection).
- d) *To attain equality* (to achieve equality).

(Ali, 2009)'s theory of *felicitous calculus* was developed based on the following basic assumptions:

- a) The happiness of each individual increases when the total amount of satisfaction is greater than the amount of sadness.
- b) The overall benefit of a community consists of the total benefits of a group of individuals.
- c) The happiness of a community can be increased if the total amount of satisfaction of the individuals in that community is greater than their sadness/misery (Yahman (ed), 2013).

The instinct and ability of each individual as a human being to feel pain/sadness/misery or happiness/satisfaction, will then feel the conscience of human feelings. A certain level of intelligence is also required as an important characteristic that needs to be developed in every human being.

With a sufficient level of intelligence, it is easier to help increase the qualitative value of happiness. *Richard A Posner* (*Richard A. Posner*, 1998) also states that:

"...as for the positive role of economic analysis of law, the attempt to explain legal rules and outcomes as they are rather than to change them to make them better." The role of *economic analysis of law* from a positivist perspective is to explain legal rules and their objectives for the better. Furthermore, he adds "...the efficiency theory of common as a system to maximize the wealth of society."

This analysis focuses on efficiency, which in principle improves public welfare.

#### 2) *Theory of Law Enforcement*

Law is a system of behavior that regulates humans and a coercive system. Therefore, in order for the law to change behavior and compel humans to implement the values contained in legal rules, law enforcement is necessary. Law enforcement is part of a series of legal processes, which include lawmaking, law enforcement, adjudication, and the administration of justice.

*Satjipto Raharjo* (2000: 175-183) expresses his opinion that *law* enforcement is the concrete implementation of law in society. After the law is made, it must be implemented concretely in everyday society, which constitutes law enforcement. However, in other terms, it is often

referred to as the application of law, or in foreign languages, it is often referred to as *rechistoepassing* and *rechtshandhaving* (Dutch), *law enforcement and application* (American).

Law enforcement is an executive task in the institutional structure of a modern state, and is carried out by the bureaucracy of the executive, or what is known as the law enforcement bureaucracy. The executive and its bureaucracy are part of the chain of command for realizing the plans outlined in regulations (laws) in accordance with the areas they handle (*welfare state*).

Law enforcement contains three elements. *The first is* legal certainty (*rechtssicherheit*), which means that the law must be applied and cannot be deviated from, or as the saying goes, even if the world collapses, justice must be upheld (*fiat justitia et pereat mundus*).

The law must be able to create legal certainty because the purpose of law is to maintain public order. *Second*, usefulness (*zweckmassigkeit*), because law is for the people, the implementation or enforcement of law must benefit or be useful to society, and should not cause unrest among the people. *Thirdly*, justice (*gerechtigheit*), that in the implementation or enforcement of the law, it must be fair because the law is universal and applies to everyone and is egalitarian. However, the law is not synonymous with justice because justice is subjective, individualistic, and not egalitarian.

Law enforcement is the broad translation of *law enforcement*, while in a narrow sense it refers to the enforcement of regulations. On the other hand, Natabaya argues that legal reform and the enforcement of the principle of the rule of law (supremacy of law) are fundamental issues in the legal field, which include legal planning (*legislative planning*), the law-making process, *law enforcement*, and efforts to increase *legal awareness*.

### 3) The theory of good governance

*The United Nations Development Programme* (UNDP) in 1997 stated that the principles of good governance consist of: transparency, accountability, responsiveness, responsibility, *rule of law*, professionalism, efficiency, effectiveness, community participation, and *strategic vision* (Elahi, 2009). However, this study will only focus on five principles, namely transparency, responsiveness, professionalism, *rule of law*, and *strategic vision*.

### 4) The theory of legal certainty

Law without certainty will lose its meaning because it can no longer be used as a guideline for behavior for everyone. Certainty itself is referred to as one of the objectives of law. With legal certainty, it will ensure that a person behaves in accordance with the provisions of the applicable law and vice versa. Without legal certainty, an individual cannot have a standard provision for behaving in a certain way. In line with this objective, *Gustav Radbruch* also explains that legal certainty is one of the objectives of the law itself.

*Gustav Radbruch* said that legal certainty is "*Scherkeit des Rechts selbst*" (legal certainty about the law itself). Four things are related to the meaning of legal certainty, including:

- a) That the law is positive, meaning that the law is legislation (*gesetzliches Recht*).
- b) Law is based on facts (*Tatsachen*), not on a formulation of judgments that will later be made by judges, such as good will and decency.
- c) That these facts must be clearly formulated in order to avoid errors in interpretation, and that they must also be easy to implement.
- d) Positive law should not be changed frequently.

Jan M. Otto also expressed his opinion on legal certainty, stating that legal certainty in certain situations requires the following:

- a) There are clear, consistent, and accessible legal rules published by the state authorities;
- b) Government agencies apply these legal rules consistently and also submit to and obey them;
- c) That the majority of citizens in principle agree with the content and therefore adjust their behavior to these rules;
- d) That independent and impartial judges (courts) apply these legal rules consistently when they resolve legal disputes; and
- e) That court decisions are concretely implemented.

The five conditions mentioned by Jan M. Otto indicate that legal certainty can be achieved if the substance of the law is in line with the needs of society. Legal rules that are capable of creating legal certainty are those that originate from and reflect the culture of society. This type of legal certainty is referred to as *realistic legal certainty*, which requires harmony between the state and the people in terms of their orientation towards and understanding of the legal system.

*Nusrahsan Ismail* argues that the creation of legal certainty in legislation requires conditions related to the internal structure of the legal norm itself. These internal conditions are as follows:

- a) First, clarity of the concepts used. Legal norms contain descriptions of certain behaviors which are then incorporated into specific concepts.
- b) Second, clarity of the hierarchy of authority of the institutions that formulate legislation. Clarity of this hierarchy is important because it concerns the validity and binding nature of the legislation that is formulated. Clarity of the hierarchy will provide guidance to lawmakers who have the authority to formulate certain legislation.
- c) Third, the existence of consistency in legal norms. This means that the provisions of a number of laws and regulations related to a particular subject do not contradict one another.

Legal certainty requires legal regulation in legislation created by authorized and authoritative parties, so that the rules have legal aspects that can guarantee certainty that the law functions as a regulation that must be obeyed.

## DISCUSSION

Minerals and coal, as natural resources contained within the earth, are non-renewable natural resources. In accordance with the provisions of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, they are controlled by the state and used for the greatest prosperity of the people. The state, through the Central Government, is responsible for the use of minerals and coal within the jurisdiction of the Republic of Indonesia through the optimal, effective, and efficient management and utilization of minerals and coal so as to encourage and support the development and independence of national industry based on mineral resources and/or coal energy.

In implementing environmentally conscious principles, the process of national and regional development throughout Indonesia must be environmentally conscious, namely a good and healthy environment as stipulated in Article 28H paragraph (1) of the 1945 Constitution. This provision ensures that the 1945 Constitution is a "*green constitution*" oriented towards a good and healthy environment. This orientation towards the environment is not only related to land and water or the earth and water and all the wealth contained therein, but must also be controlled by the state and utilized for the greatest benefit of all Indonesian people. Therefore, the 1945 Constitution is not only green-oriented but also blue-oriented as "*the green and blue constitution*" which must become a perspective or vision reflected in all national and regional development activities (Jimly Asshiddiqie, 2020).

Efforts to protect and manage the environment *hidup* are efforts systematic and integrated efforts undertaken to preserve environmental functions and prevent pollution and/or environmental damage, including planning, utilization, control, maintenance, supervision, and law enforcement.

The policy requiring mining companies to carry out reclamation and post-mining activities is further regulated in Articles 99 and 100 of the Minerba Law, which essentially states that when applying for an IUP, mining companies are required to provide a reclamation and post-mining plan. To compel companies to carry out reclamation, IUP holders are required to pay a certain fee as a guarantee for reclamation. This must be determined before the company commences production operations.

Mining operations carried out by IUP holders themselves will have both positive and negative effects. An example of a negative effect is environmental damage, so that when mining operations are completed or partially completed, post-mining activities, commonly referred to as Mine Closure Plans (RPT), are required. The Minerba RPT is an obligation that must be carried out by IUP holders in accordance with the Minerba Law in Article 99 paragraphs (1) to (3).

Therefore, it is important to monitor how mining companies carry out post-mining reclamation in order to minimize the environmental damage that has occurred so far. Of course, supervision here is carried out by local and central governments, so that they can jointly oversee mining activities and the implementation of reclamation and post-mining. Based on this description, efforts to restore the condition of the land so that it can function as it should is not solely the responsibility of the Ministry of Energy and Mineral Resources as the party that assesses and approves the Reclamation Plan and as the party that is negligent in supervising the reclamation carried out by Business Entities, but also the responsibility of Business Entities to be involved in carrying out reclamation because it is an obligation for Business Entities to carry out reclamation in accordance with what has been stated in the law mentioned above.

Law No. 3 of 2020 is expected to resolve several issues in the management of mining activities by local governments, including: 1) The prevalence of IUP trading; 2) The large amount of IUP data that is not synchronized between the central and local governments; 3) Local governments do not allocate sufficient funds for mining investigation and research activities; 4) Many mining conflicts occur between IUP holders and communities that cannot be resolved properly and with certainty; 5) Mining permits are often granted without considering the Strategic Environmental Assessment (KLHS); 6) Lack of human resources in terms of both quantity and quality; 7) Lack of local government technology in mining; 8) Lack of mining inspectors in the supervision of mining activities.

In the context of the Pancasila Paradigm in the application of Legal Certainty in environmental management in the governance of Reclamation and Post-Mining in the Mineral and Coal sector. Thus, the regulation of legal norms for the settlement of environmental management, reclamation, and post-mining to achieve legal certainty in mining management in accordance with Article 99 of Law Number 3 of 2020, with Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia:

From the study of the implementation, it is evident that the management of Monitoring and Evaluation Data on the Implementation of Reclamation and Post-Mining Guarantees carried out by the government is still inadequate. This condition can be described as follows

- a. Reclamation data monitoring is still carried out manually, has not been developed through an information system, and has not been integrated with existing government service systems.
- b. The monitoring data does not include information on the determination or *tagging* of whether the placement carried out by the IUP Business Entity is a former reduction, WIUP return, or other matters in accordance with the provisions of laws and regulations.
- c. The determination of reclamation and post-mining guarantee values has not been fully carried out in an accountable manner, such as monitoring data on land openings owned by the government, which is 431,429.26 hectares, cannot describe the amount of guarantees that must be placed by IUP Business Entities because they do not yet have a standard guarantee value determination;

The level of compliance with reclamation implementation by IUP holders is still lacking. Based on reclamation guarantee placement data obtained from the Directorate General of Mineral and Coal, it was found that there are still reclamation guarantees that have never been disbursed after more than 10 (ten) years from the reclamation implementation plan as outlined in the reclamation plan document. This indicates that IUP-holding business entities have not implemented the reclamation plan in accordance with the reclamation plan document that has been prepared and approved by the central government/local government (in accordance with their respective authorities).

The implementation of the reclamation plan should have been carried out by the IUP Holder Business Entity within 30 (thirty) days after there were no mining activities on the disturbed land.

In the event that there are no activities on the disturbed land and mining activities are planned to resume in that area, holders of Production Operation IUPs and Production Operation IUPKs are required to carry out Production Operation stage reclamation activities in order to control surface water quality, erosion, and sedimentation.

In response to this, the government did not impose sanctions and, in accordance with its authority, did not release the reclamation guarantee and appoint a third party to carry out reclamation activities, either partially or in full, using the reclamation guarantee.

Therefore, it is important to conduct intensive monitoring and evaluation of terminated IUPs, both those that have expired and those whose permits have been revoked, to prevent legal problems in the future.

Based on the data provided, the details are as follows:

- a. Reclamation Guarantees: There are 2,771 inactive IUPs, of which 2,771 have been assigned a reclamation guarantee value of IDR 1.03 trillion and IDR 1.09 trillion has been deposited.
- b. Post-mining Guarantee: There are 536 inactive IUPs, of which Rp616 billion in post-mining guarantees have been determined and Rp582 billion has been deposited.

This is due to the ongoing transition process of reconciling the submission of reclamation and post-mining guarantee data from the regions to the central government; monitoring and evaluation by the Ministry of Energy and Mineral Resources is still inadequate.

As a result, the placement of the guarantee value that must be placed by the Business Entity is delayed, potentially leading to the loss of certainty of funds from the guarantee fund for some mining permit holders to carry out repairs and restoration of environmental damage caused by mining activities.

To provide legal certainty in ensuring compliance by Business Entities, it is recommended that the government:

- a. Imposing sanctions on IUP Business Entities that have not provided reclamation and post-mining guarantees in accordance with applicable regulations;
- b. Ordering IUP Business Entities whose guarantee values have been determined to immediately place guarantees in accordance with the determined values in the form of guarantees in accordance with applicable regulations, while ordering IUP Business Entities whose guarantee values have not yet been determined to immediately submit their reclamation and post-mining plans for evaluation and assessment;

- c. Review regulations/SOPs by considering aspects of compliance with Reclamation Guarantees and Post-Mining Guarantees as prerequisites for RKAB approval, evaluation of IUP upgrades from Exploration to Production Operations, and area reduction;
- d. Form a Task Force and *Coaching Clinic* to accelerate the determination of Reclamation and Post-Mining Guarantee Values, including Business Entities that have made deposits but have not yet been determined, so that a re-evaluation can be carried out;
- e. Assessing the disbursement of guarantees made by IUP Business Entities;
- f. Developing further mechanisms related to the appointment of third parties in accordance with applicable regulations;
- g. Immediately appoint a third party to carry out partial or full reclamation activities using reclamation guarantees if the evaluation results show that the reclamation implementation does not meet the success criteria;
- h. Develop SOPs for the administration of reclamation and post-mining guarantees, which include at least the procedures for submission, clarification/confirmation of authenticity, recording, storage, and retrieval/return of reclamation and post-mining guarantees, as well as improving the business processes of Guarantee Administration, including the appointment of a *Process Owner* within the Directorate General of Mineral and Coal;
- i. Incorporate the Reclamation and Post-Mining Guarantee Management Module into the *Minerba One* Information System;
- j. Completing incomplete data, creating criteria (tagging) and data standards (*single identity*) for IUP Business Entities;
- k. Developing policy standards for assessing the minimum value of guarantees per region and type of reclamation and post-mining activities;

Many mining permits are granted without considering strategic environmental impact assessments (KLHS), resulting in environmental damage; AMDAL documents are often copied and pasted from other AMDAL documents that do not reflect the actual conditions in the field, and there are rarely any attempts to impose sanctions on companies that violate these environmental permit requirements; Problems arise due to a lack of supervision by local governments regarding the issuance of AMDALs.

Many mining conflicts between IUP holders and communities cannot be resolved properly, even though the idea is that local governments are considered to have a better understanding of the socio-economic aspects of local communities.

The most complex issues facing the mineral and coal mining industry are the environmental impacts it causes, such as decreased soil productivity, soil compaction, erosion and sedimentation, landslides, disruption of flora and fauna, disruption of public safety and health, and changes in the microclimate. The increasing exploitation of natural resources through mining activities has resulted in increased potential for pollution and environmental damage around mining sites.

## CONCLUSION

That in its development, Law No. 3 of 2020 and its implementing regulations have not been able to address the actual problems and conditions in the implementation of mineral and coal mining operations, including cross-sectoral issues between the mining sector and non-mining sectors. Based on this, improvements are needed to provide legal certainty in the management and exploitation of mineral and coal mining for business actors in the mineral and coal sector, particularly in relation to strengthening policies related to environmental management in mining activities, including *the implementation of reclamation and post-mining activities*.

The negative impact of mining activities on the environment must be controlled to prevent damage beyond reasonable limits. The principles of reclamation activities are: (1) reclamation activities must be considered an integral part of mining activities (2) reclamation activities must be carried out as early as possible and should not wait until the entire mining process is complete.

Efforts to protect and manage the environment are efforts that are systematic and integrated to preserve environmental functions and prevent pollution and/or damage to the environment, including planning, utilization, control, maintenance, supervision, and law enforcement.

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