

Formulation For Resolution of Partial Or Complete

Overlapping of Mining Business Permit Areas

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ABSTRACT

Mineral and coal mining plays a strategic role in national development because it contributes to economic growth, energy security, and increased state revenue. However, this sector still faces serious problems in the form of overlapping Mining Business Permit Areas (WIUP), which give rise to legal uncertainty, conflicts of interest, and inefficient natural resource governance. Overlapping permits arise from a weak licensing administration system, regulatory disharmony, and a lack of coordination between central and regional government agencies. This situation has implications for disrupting the investment climate, declining business confidence, and reducing state revenue from the mining sector. As a normative response, Law Number 2 of 2025, specifically Article 171B, regulates the authority of the Central Government to evaluate and revoke Mining Business Permits (IUP) that experience overlap in part or all of their areas. This policy is a strategic step to reorganize licensing and ensure legal certainty in accordance with the mandate of Article 33 of the 1945 Constitution. However, its implementation faces challenges in the form of limited integrated spatial data, a weak national mining information system, and the absence of a standard mechanism for resolving overlapping permit disputes. This study uses a normative juridical method with a statutory, conceptual, and case approach to analyze the urgency and formulation of regulations for resolving overlapping WIUPs. The results of the study indicate that derivative regulations are needed in the form of comprehensive, systematic, and applicable Government Regulations to regulate the evaluation, revocation, and dispute resolution mechanisms in a transparent manner. Thus, clear and integrated regulations are not only able to create legal certainty and justice, but also ensure the utilization of mineral and coal resources for the greatest prosperity of the people.

Keywords: Minerals and Coal; Overlapping WIUP; Mining Business Permits; Legal Certainty; Natural Resource Governance; Law Number 2 of 2025.

1. INTRODUCTION

Mining is a strategic sector that contributes significantly to economic growth and state revenues. The utilization of mineral and coal resources is not only a catalyst for national economic development but also a crucial instrument for achieving equitable development across regions. Therefore, mining management must be based on structured, integrated legal governance that provides legal certainty for all parties, especially long-term investors. (Ali, 2002) .

Based on Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the state has full authority over the land, water, and natural resources contained therein, including the mining sector. This authority is realized through public policies, regulations, and administrative actions implemented by the government. The main objective of this state control is to ensure that the utilization of natural resources is directed to the greatest possible prosperity of the people.

Therefore, mining management must be based on the principles of justice, transparency, and sustainability. (Dewi & Hasan, 2020; Soerodjo, 2021).

The national legal framework for mining is regulated by Law No. 4 of 2009 concerning Mineral and Coal Mining, which has subsequently undergone several amendments, most recently through Law No. 2 of 2025. However, despite this comprehensive legal framework, overlapping mining business permit areas (WIUP) remains common. This situation leads to disputes between permit holders, disrupts business operations, and even results in state losses due to suboptimal utilization of natural resources (Barhamudin, 2019).

The issue of overlapping Mining Business Permit Areas (WIUP) indicates weaknesses in permit administration, inconsistencies in spatial data, and disharmony in authority between permit-issuing institutions. This problem was exacerbated by differing policies between the central and regional governments prior to regulatory reforms. As a result, many permits were issued without adequate location verification, leading to legal and social conflicts at the community level (Soekanto, 2005).

To reorganize the licensing system, the government established the Land Use and Investment Management Task Force through Presidential Decree No. 1 of 2022. This task force is led by the Minister of Investment/Head of the Investment Coordinating Board (BKPM), with the primary mandate of comprehensively overhauling overlapping licensing requirements, including in the mining sector. This step demonstrates the government's commitment to improving legal certainty and efficiency in natural resource governance (Arba, 2018).

As part of this policy implementation, the government revoked thousands of problematic Mining Business Permits (IUPs). A total of 1,118 IUPs were officially revoked across various sectors, including nickel, coal, copper, bauxite, tin, gold, and other minerals. This large number of permit revocations demonstrates serious problems in the previous mining governance and represents a concrete effort by the government to improve the licensing system. (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Arba, 2018)

However, permit revocation carries legal consequences for IUP holders who feel aggrieved. The government provides business actors with the opportunity to file objections through administrative mechanisms, including submitting objection letters, clarification meetings, and submitting supporting documents. However, some business actors choose to pursue legal action through the State Administrative Court (PTUN) to defend their rights to revoked permits. This demonstrates the need for a clearer and more consistent dispute resolution mechanism. (Ali, 2002) (Barhamudin, 2019)

The latest regulatory developments through Law Number 2 of 2025 bring significant changes to mining governance. One key article, Article 171B, stipulates that IUPs that overlap, in part or in full, with WIUPs will be revoked and returned to the state. This provision emphasizes the repositioning of full authority within the central government to prevent licensing conflicts and ensure more centralized and accountable governance. (Ali, 2002; Ibrahim, 2006) (Dewi & Hasan, 2020; Soerodjo, 2021) (Arba, 2018) (Sulaiman, 2017; Ibrahim, 2006) (Soekanto, 2005)

However, despite the existence of normative provisions, the practical implementation of this policy still faces challenges. The licensing evaluation process requires accurate spatial data, a transparent information system, and government commitment to enforcing the rules. Furthermore, the mechanism for resolving disputes over overlapping Mining Business Permit Areas (WIUP) has not been fully technically regulated in implementing regulations, creating potential normative gaps and legal uncertainty. (Sulaiman, 2017).

Based on this description, an in-depth legal review of the Central Government's authority to resolve overlapping Mining Business Permit Areas (WIUPs) is crucial. This analysis is expected to provide a clearer, more effective regulatory formulation and ensure legal certainty for mining businesses. Thus, existing regulations will not only serve as administrative instruments but also address the complex challenges of mining governance in Indonesia.

2. RESEARCH METHODS

The research method used is Normative Juridical Research (Legal Research). The approach used in this study is carried out using the Legislative Approach, Conceptual Approach, and Case Approach. Types and Sources of legal materials are Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials. In collecting legal materials in this study, it is done through library research. The researcher will conduct an assessment of various problems relevant to this research by using legal sources in this research. By using systematic interpretation and systematic interpretation, and construction interpretation in this research, so that the results are not only merely understanding existing laws, but also discovering or developing new laws that are relevant to solving existing problems. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Ali, Z., 2022)

3. RESULTS AND DISCUSSION

The Urgency of Regulations For Resolution of Partial Or Complete Overlapping Of Mining Business Permit

1. Analysis of Overlapping Areas of Part or All Mining Business Permit Areas.

Mineral and coal management plays a crucial role in the global economy, particularly in supporting industrial growth and maintaining national energy security. These natural resources have a wide range of uses, from providing energy through power plants to serving as vital raw materials in the manufacturing sector. Indonesia, as a country with abundant mineral and coal reserves, not only meets domestic demand but also serves as a major supplier to major industrial nations such as China, India, Japan, and South Korea. The contribution of these commodity exports has a positive impact on increasing foreign exchange earnings and strengthening Indonesia's position in international trade.

The strategic role of minerals and coal becomes even more evident when linked to energy independence and national industrial resilience. Indonesia, as the world's third-largest coal producer, has significant potential to continue driving economic growth while strengthening domestic energy security. Based on the 2023 Work Plan and Budget (RKAB), the coal production target is 900 million tons, with exports reaching 518.05 million tons. This figure underscores the sector's significant contribution to state revenues, including taxes, royalties, and export foreign exchange.

The Indonesian government has formulated a long-term vision through the concept of "Golden Indonesia 2045," which positions downstream mining as a key instrument for creating added economic value. Downstream mining is aimed at producing more efficient and high-value derivative products, such as coal gasification, methanol production, and the development of coal-based energy. Implementation of this policy is expected to improve public welfare by creating new jobs, reducing dependence on raw material exports, and strengthening the competitiveness of national industry on the global stage. (Dewi & Hasan, 2020; Soerodjo, 2021) (Arba, 2018)

The vision of Golden Indonesia 2045 aligns with Asta Cita Number 5, which is part of the mission of the President of the Republic of Indonesia and is stated in the National Priorities in the 2025–2029 RPJMN. However, efforts towards downstreaming still face significant challenges, particularly in terms of legal certainty and regulatory consistency. One fundamental obstacle is the frequent regulatory changes, particularly in Law Number 4 of 2009 concerning Mineral and Coal Mining, which has undergone four amendments, most recently through Law Number 2 of 2025. Repeated changes without comprehensive integration create uncertainty for investors and business actors. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021)

In addition to regulatory issues, overlapping authority between the central and regional governments regarding licensing and oversight is a barrier to effective governance. This situation is exacerbated by rampant illegal mining, weak law enforcement, and low investment in infrastructure and technology supporting downstream processing. These factors hinder downstream processing efforts and create the risk of legal uncertainty for business actors. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Arba, 2018) (Sulaiman, 2017; Ibrahim, 2006)

Nevertheless, the prospects for downstream processing remain promising, amid growing global demand for high-value mineral products, such as nickel, steel, and electric vehicle batteries. Indonesia, with the world's largest nickel reserves, has a significant opportunity to become a hub for the global battery industry. Government support in the form of fiscal incentive policies, strategic infrastructure development, and strengthening sustainable regulations is expected to strengthen Indonesia's position in the global supply chain while encouraging value-added economic transformation. (Sulaiman, 2017)

However, overlapping mining business permit (WIUP) areas remains a serious legal issue. This phenomenon occurs when two or more permits are issued in the same or adjacent areas, leading to ownership conflicts, hampering business activities, and causing state losses due to inefficient resource utilization. This problem reflects weaknesses in the permit administration system, inaccurate spatial data, and a lack of synchronization between permit-issuing agencies. Conflicts become more complex when indigenous peoples' claims or inconsistencies with regional spatial planning overlap with mining areas. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Soekanto, 2005)

In the context of administrative law, licensing is an instrument of state control over the activities of communities or legal entities, both restrictive and legitimizing. According to Adrian Sutedi, licensing encompasses various forms, such as registration, recommendations, permits, certifications, and quotas, which must be met before an activity can be undertaken. In the mining sector, this permit takes the form of a Mining Business Permit (IUP), which covers all stages from exploration, exploitation, processing, refining, and sales. To obtain an IUP, business actors must meet administrative and technical requirements, including an environmental impact analysis (AMDAL). (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019)

Article 9 paragraph (1) of Government Regulation No. 96 of 2021 stipulates that Mining Permits (IUP) can be granted to business entities, cooperatives, or sole

proprietorships. However, in practice, overlapping permits often occur, disrupting legal certainty. To address this, Law Number 2 of 2025, through Article 171B, authorizes the government to revoke overlapping Mining Permits (IUPs) and return them to the state. This policy aligns with Article 33 of the 1945 Constitution, which affirms the principle of state control over natural resources for the greatest possible prosperity of the people. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Arba, 2018)

To strengthen cross-sector coordination, the government established the Land Use and Investment Management Task Force through Presidential Decree No. 1 of 2022. This task force is led by the Minister of Investment/Head of the Investment Coordinating Board (BKPM), with the primary mandate of evaluating, revoking, and restructuring problematic permits, including Mining Permits (IUP). As a form of implementation, the Task Force has revoked more than 1,118 IUPs for various commodities, covering an area of over two million hectares. This step is seen as a strategic effort to restructure mining permit governance to be more transparent, accountable, and equitable. (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Arba, 2018)

Although the revocation of a Mining Permit (IUP) was intended to improve governance, the move created new dynamics in the form of objections and lawsuits from permit holders. The objection procedure involved submitting written letters, clarifying matters in joint meetings, and submitting supporting documents. However, most business actors chose to pursue legal action through the State Administrative Court (PTUN) to challenge the legality of the revocation decision. This phenomenon reflects the gap between government policy and the legal certainty expected by business actors. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Arba, 2018)

It is at this point that the issue of legal certainty becomes crucial. According to administrative law theory, legal certainty must ensure that every administrative decision is predictable, consistent, and free from arbitrariness. Overlapping permits, inconsistent revocations, and weak law enforcement create uncertainty that has the potential to hinder investment and trigger prolonged legal conflicts. Therefore, the formation of the Task Force and the policy of revoking IUPs must be viewed as corrective measures that still require refinement of legal mechanisms to achieve a balance between state interests, business certainty, and legal protection for all parties. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Barhamudin, 2019) (Soekanto, 2005) (Arba, 2018)

2. Legal Implications of Overlapping Areas of Part or All Mining Business Permits.

Overlapping mining business permit (WIUP) areas is one of the most complex issues in mining sector governance in Indonesia. This issue is not only related to administrative aspects, but also touches on legal, economic, social, and environmental aspects. Overlapping WIUP can be understood as a condition where one mining area overlaps with another mining business permit area, or with other areas such as forest areas, agricultural land use rights (HGU), or established regional spatial planning zones (RTRW). The existence of this overlap gives rise to serious problems in the form of legal uncertainty, operational conflicts, and state losses in terms of tax revenues, royalties, and environmental and social sustainability. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Arba, 2018) (Soekanto, 2005)

From a legal perspective, the problem of overlapping Mining Business Permit Areas (WIUP) stems from weak coordination and harmonization between government agencies at both the central and regional levels. Each agency has different sectoral authority in issuing permits, resulting in frequent policy disharmony. This situation is exacerbated by overlapping regulations, opening up the potential for conflict. In practice, it is not uncommon for mining areas with official permits to clash with claims by indigenous communities or other corporate interests. This not only creates uncertainty but also triggers potential violations of agrarian and forestry laws and opens up opportunities for corruption, collusion, and nepotism (KKN) in permit issuance. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Sulaiman, 2017; Ibrahim, 2006) (Soekanto, 2005) (Arba, 2018)

The legal implications of overlapping Mining Business Permit Areas (WIUP) are crucial because they affect legal certainty, investment stability, and sustainable resource governance. In practice, business actors face the risk of administrative and legal disputes, which often result in the suspension of operations or other administrative sanctions. Protracted conflicts often hamper the sustainability of mining investments that should add value to the national economy. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Arba, 2018) (Soekanto, 2005)

Legal uncertainty is a major implication experienced by Mining Business Permit (IUP) holders. This situation occurs when two or more permit holders claim the same area, resulting in unclear ownership and operational rights. This situation contradicts the basic principles of legal certainty theory, which emphasizes that the law must be clear, consistent,

and predictable. The failure of the law to provide certainty results in increased legal risks for business actors, ultimately harming the investment climate. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019)

This failure to create legal certainty also reflects weak public administration governance. Overlapping regulations and weak oversight create opportunities for overlapping permits. Ideally, the legal system should be designed to be harmonious, transparent, and accessible, enabling supervisory authorities to consistently enforce regulations. This misalignment not only undermines the law's function as a regulatory and protective instrument but also undermines the government's credibility with both domestic and foreign investors. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Barhamudin, 2019) (Sulaiman, 2017) (Soekanto, 2005) (Arba, 2018)

Legal uncertainty resulting from overlapping Mining Business Permit Areas (WIUP) directly impacts the sustainability of mining businesses. Protracted disputes cause financial losses, damage company reputations, and even discourage foreign investors from investing. For investors, high legal risk is a key determinant in investment decisions. As a result, the mining sector's economic potential cannot be optimized for national development. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019)

In addition to legal uncertainty, overlapping Mining Business Permit Areas (WIUP) also poses the threat of intersectoral conflict. Conflicting interests between the mining, forestry, agriculture, and environmental sectors frequently arise because each sector has different development priorities. For example, the mining sector emphasizes the use of minerals for economic growth, while the forestry and environmental sectors prioritize ecosystem sustainability. This type of intersectoral conflict illustrates a clash of interests that is difficult to reconcile without clear, integrated regulations. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Soekanto, 2005)

Furthermore, mining operations in overlapping areas without legal resolution have the potential to lead to administrative, civil, and criminal violations. Administratively, violations can include mining activities without permits or activities not in accordance with existing permits, resulting in administrative sanctions and even permit revocation. Civilly, disputes arise from violations of land ownership rights, which can trigger lawsuits for compensation. Meanwhile, in the criminal realm, Article 158 of Law Number 3 of 2020 stipulates that mining without permits is punishable by up to five years' imprisonment and

substantial fines. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019)

Weak governance and coordination between agencies are also major contributing factors to overlapping Mining Business Permit Areas (WIUP). The lack of integration of spatial planning and licensing information systems often leads to inconsistent permit issuance. The One Map Policy, which should have unified spatial data into a single national system, has not been implemented optimally. Furthermore, limited human resources in utilizing information technology, along with the absence of a single, strong, cross-sectoral authority, further exacerbate the weak governance of mining permits. (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Arba, 2018) (Sulaiman, 2017; Ibrahim, 2006)

From a fiscal perspective, overlapping permits disrupt the optimization of Non-Tax State Revenue (PNBP) and Regional Original Revenue (PAD). Unclear permit statuses lead to confusion in payment obligations, potentially leading to revenue leakage. In many cases, there is a risk of payment evasion or even unrecorded double payments. This reflects the weakness of the state financial administration system in the mining sector. (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Soekanto, 2005)

Furthermore, overlapping Mining Business Permit Areas (WIUP) hamper the implementation of mineral downstreaming policies and local economic empowerment. Uncertainty over permits discourages investors from investing in downstream processing industries. Consequently, most mining products are still exported in their raw form, reducing national added value. This situation directly impacts job creation, increased regional revenue, and technology transfer, which should benefit from the downstreaming process. (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019)

These obstacles also impact the well-being of communities surrounding mines. When downstream processing is not optimal, local economic opportunities are limited, while environmental and social risks from mining activities remain high. This widens the economic gap between regions, ultimately undermining the ideals of sustainable and equitable economic development. Therefore, resolving overlapping Mining Business Permit Areas (WIUP) through clear regulations, harmonization of central and regional policies, strengthening oversight, and simplifying the licensing bureaucracy is crucial for achieving sustainable mining governance. (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Arba, 2018)

3. The Importance of Regulating the Settlement of Overlapping Part or All of Mining Business Permit Areas.

Mineral and coal mining plays a strategic role in national and regional development, contributing significantly to improving public welfare. This sector not only supports state revenue through taxes and royalties but also creates jobs, encourages infrastructure development, and stimulates regional economic growth. Therefore, mining management must be carried out wisely, in line with the constitutional mandate that natural resources are controlled by the state and used optimally for the prosperity of the people. In line with Article 171B of Law No. 2 of 2025 concerning the Fourth Amendment to Law No. 4 of 2009, restructuring regulations related to mining areas is urgently needed to ensure more orderly, transparent, and equitable mining governance. (Ali, 2002; Ibrahim, 2006) (Dewi & Hasan, 2020; Soerodjo, 2021) (Sulaiman, 2017) (Arba, 2018)

Rights to Mining Business Permit Areas (WIUP), Community Mining Areas (WPR), and Special Mining Business Permit Areas (WIUPK) do not essentially encompass ownership rights to the surface of the earth. This means that the permits granted only grant exploitation rights, not land ownership rights. Therefore, land rights settlement must still be carried out before mining activities can begin. This provision is intended to avoid conflicts with land rights holders, other concession owners, and indigenous communities who have long resided in the area. Without a clear mechanism for resolving land rights, mining permits will always have the potential to give rise to disputes and social resistance. (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Soekanto, 2005)

The most complex problem in the implementation of mining permits is the emergence of overlapping mining business permit (WIUP) areas. This condition can occur between WIUPs and other WIUPs, between WIUPs and other land use permits, with protected forest areas, with business use rights, or with regional spatial plans. Overlapping permits create legal uncertainty, as permit boundaries become unclear, which ultimately negatively impacts investment stability, environmental sustainability, and state revenues. Furthermore, overlapping also increases the risk of horizontal conflict between business actors and vertical conflict with surrounding communities who feel disadvantaged by unclear permit issuance. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Soekanto, 2005)

As an effort to address this, Article 171B paragraph (1) of Law No. 2 of 2025 authorizes the central government to revoke mining business permits (IUP) that are proven

to be overlapping, either in part or in full, of the permit area. This revocation is intended to return the mining area to the state, so that it can be managed optimally and in accordance with statutory regulations. This policy is a real implementation of Article 33 of the 1945 Constitution, which emphasizes that state control over natural resources is not rhetoric, but rather an obligation to ensure that resource management is carried out fairly, transparently, and for the benefit of the people. (Ali, 2002; Ibrahim, 2006) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Arba, 2018)

The provisions regarding permit revocation are imperative and absolute, so the central government has a significant responsibility to consistently enforce administrative regulations. The principle of transparency is the primary foundation for ensuring that the public and business actors clearly understand the basis for evaluation, the revocation mechanism, and the reasons for returning the territory to the state. Without transparency, this policy has the potential to be perceived as arbitrary, which could undermine legal legitimacy. Therefore, the publication of evaluation results and announcements of permit revocations must be carried out openly to increase accountability and public trust in mining policies. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Arba, 2018)

However, the regulations in the law are still general in nature and do not yet detail the technical mechanisms for resolving overlapping Mining Business Permit Areas (WIUP). Therefore, it is necessary to establish a Government Regulation as a derivative normative instrument that details evaluation procedures, permit revocation criteria, the mechanism for returning territory, and protects the rights of legitimate business actors. Without clear derivative regulations, the implementation of permit revocation has the potential to create new uncertainty and widen the scope for legal disputes. These technical regulations must also ensure a balance between the interests of the state, business actors, and the community. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017)

In practice, the government faces several major challenges. First, the lack of a truly transparent, integrated, and spatially accurate national mining information system. This lack of a system makes evaluations vulnerable to manipulation and difficult to verify. Second, the bureaucracy's political courage in revoking problematic permits is often hampered by economic interests and political pressure from certain groups. Third, there is still no standard mechanism for resolving overlapping permit conflicts, either through

administrative procedures or through the courts. This gap creates inconsistencies in case resolution, ultimately detrimental to legal certainty and the investment climate. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Soekanto, 2005)

The legal uncertainty arising from overlapping Mining Business Permit Areas (WIUP) has a serious impact on the business world. Businesses that have legally obtained permits and meet regulatory requirements often suffer losses because their permits are challenged due to other permits issued in the same area. This situation not only increases legal risks but also increases investment costs, slows exploration processes, and undermines foreign investor confidence in Indonesia's investment climate. Therefore, the government needs to provide stronger legal protections for well-intentioned business actors. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019)

To strengthen legal certainty, the government must encourage cross-sectoral coordination, including between ministries responsible for mining, forestry, agrarian affairs, and spatial planning. Policy synergy is key to avoiding overlapping authority and ensuring that permits are issued based on the same, integrated spatial map. Furthermore, the participation of local communities and regional governments is crucial to ensuring that mining management does not neglect social, cultural, and environmental rights. With multi-stakeholder involvement, permit conflict resolution will be more comprehensive, equitable, and sustainable. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017; Ibrahim, 2006) (Soekanto, 2005) (Arba, 2018)

Normatively, the urgency of regulations regarding the resolution of overlapping Mining Business Permit Areas (WIUP) aims not only to create legal certainty but also to ensure the achievement of justice and utility in natural resource management. Without clear, consistent, and transparent regulations, the mining sector will continue to be plagued by conflict, uncertainty, and inefficiency. Therefore, the development of comprehensive implementing regulations is an urgent need to ensure Indonesia's sustainable optimization of its mineral and coal resources while maintaining a balance between economic interests, the environment, and public welfare. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Soekanto, 2005)

Formulation of Regulations On The Settlement Of Partial Or Complete Overlapping of Mining Business Permit Areas

1. Principles of Formation of Legislation

The formation of legislation is basically aimed at producing good, effective, and enforceable legal norms in national life. According to IC Van Der Vlies and A. Hamid S. Attamimi, the principles of establishing regulations can be divided into formal principles and material principles. Formal principles include the principle of clear objectives (*beginsel van duidelijke doelstelling*), the principle of appropriate organs or institutions (*beginsel van het juiste orgaan*), the principle of the need for regulation (*het noodzakelijkheids beginsel*), the principle of implementation (*het beginsel van uitvoerbaarheid*), and the principle of consensus (*het beginsel van consensus*). Meanwhile, material principles include the principle of using correct terminology and systematics (*het beginsel van duidelijke terminologie en duidelijke systematiek*), the principle of recognizability (*het beginsel van de kenbaarheid*), the principle of equal treatment in law (*het rechtsgelijkheidsbeginsel*), the principle of legal certainty (*het rechtszekerheids beginsel*), and the principle of implementing the law according to individual circumstances (*het beginsel van de individuele rechtbedeling*). (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Sulaiman, 2017)

This view aligns with Maria Farida's opinion, which categorizes formal and material principles within the context of Indonesia's rule of law. Formal principles encompass clarity of purpose, the necessity of regulation, the appropriateness of the establishing institution, the appropriateness of the content, the principle of enforceability, and the principle of recognizability. Meanwhile, material principles encompass conformity with Indonesia's legal ideals, fundamental state norms, the principles of the rule of law, and the principles of constitutional government. Therefore, the creation of sound legislation must meet these formal and material requirements, including clarity of purpose, the legitimacy of the establishing institution, appropriateness of type and hierarchy, and transparency in the process. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Sulaiman, 2017)

As a state based on the rule of law, Indonesia is obliged to place the constitution as the highest law in the hierarchy of laws and regulations. Therefore, the formation of regulations must be based on three main guidelines: the national ideology (*Pancasila*), the fundamental norms of the state (*Pancasila*), and the principles of the rule of law and constitutional government. In addition, there are also important principles, including that a regulation can only be formed based on regulations of equal or higher rank, that old regulations are replaced by new regulations (*lex posterior derogat legi priori*), and that lower regulations must not contradict higher regulations (*lex superior derogat legi inferiori*). These principles

serve to maintain consistency, certainty, and harmony in the national legal system. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Sulaiman, 2017)

The concept of establishing legislation is closely related to the idea of law as the result of rational reasoning rooted in a conscience regarding justice. Law is not merely a political product, but rather the embodiment of the value of justice in the form of norms that regulate societal behavior. Sajipto Rahardjo emphasized that legal principles must be the basis for drafting laws. Without legal principles, the legal system would be merely a collection of dry and directionless statutory texts. With legal principles, the legal system obtains guidance on where it should develop, especially in facing the dynamics of society and the ever-emerging new challenges. (Ali, 2002; Ibrahim, 2006) (Ali, 2002)

Justice, as an abstract value, can only be realized through legal norms enshrined in legislation. However, empirical reality shows that laws, even legal codifications, have never been able to comprehensively regulate all social problems. This situation is exacerbated by the persistence of differing paradigms regarding Pancasila, resulting in many laws being challenged through judicial review. This demonstrates that the laws and regulations that have been created do not fully reflect the ideals of justice derived from Pancasila as the foundation of the state. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Sulaiman, 2017)

In addition to formal and material principles, there are also important principles that must be used as guidelines, namely *lex superior derogat legi inferiori*, *lex posterior derogat legi priori*, and *lex specialis derogat legi generali*. The first principle asserts that higher regulations must take precedence over lower regulations in cases of conflict. The second principle states that new regulations override older regulations. The third principle gives special regulations a stronger standing than general regulations. These three principles are principles of legal interpretation that have been recognized in both national and international law and are highly relevant in maintaining the consistency of the Indonesian legal system. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Sulaiman, 2017) (Soekanto, 2005)

The essence of the formation of legislation is the creation of general legal norms that apply internationally. All decisions, whether in the form of laws, government regulations, or regional regulations, are essentially the manifestation of the will of the legitimate ruler based on the legal hierarchy. Differences in hierarchical levels result in differences in function and content, but all remain within a generally binding legal framework. Thus, the process of forming legislation is a political-legal process that produces legal substance that

is then officially promulgated in the State Gazette. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Sulaiman, 2017)

From the perspective of the theory of legal authority, the formation of legislation requires a clear distribution of authority between institutions. Each official or institution can only act within the limits of the authority granted by law. This is to prevent conflicts of authority and normative vacuums. Authority must be legitimate, specific, and implemented in accordance with the principles of *lex superior*, *lex posterior*, and *lex specialis*. In the context of resolving conflicts over overlapping Mining Business Permit Areas (WIUP), the distribution of authority is crucial to prevent conflicts between sectors. Therefore, regulations governing WIUP must be based on the principles of legality, legal certainty, and clarity of authority, both at the central and regional levels, so that the resulting regulations are truly capable of resolving problems systematically, fairly, and transparently. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Sulaiman, 2017; Ibrahim, 2006) (Soekanto, 2005)

2. General Principles for Regulating Mining Business Permit Areas.

A Mining Business Permit Area (WIUP) is a geographical zone designated by the government as an exclusive area for Mining Business Permit (IUP) holders to conduct mineral and coal mining activities. The establishment of a WIUP is a crucial instrument in national mining governance as it regulates the structured, efficient, and sustainable use of space. It also provides legal certainty for business actors, balances interests between the state, the community, and investors, and safeguards environmental sustainability. Therefore, a WIUP is not merely interpreted as a technical-administrative aspect, but rather as an integral part of the strategic policy for national natural resource management based on the principles of sustainable development. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Arba, 2018)

Administratively, WIUPs are granted based on the provisions of Law Number 4 of 2009 concerning Mineral and Coal Mining and its implementing regulations. This legal basis emphasizes that every WIUP determination must go through clear and binding legal procedures, starting from geological identification, technical feasibility analysis, to evaluation of environmental and social aspects. The determination of areas must also take into account the rights of indigenous communities, protected areas, and other ecological functions that must not be compromised for the sake of economic interests alone. Thus, WIUP regulations combine legal, technical, and socio-ecological elements, thus serving as

a means to ensure order, legal certainty, and protection of community and environmental interests. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Sulaiman, 2017)

The substantive meaning of a Mining Business Permit (WIUP) is the granting of exclusive rights to the holder of the IUP to carry out the entire range of mining activities, from exploration to production. This means that the WIUP is not only about geographical boundaries, but also has broad legal, technical, and operational implications. All activities carried out within the WIUP must be guided by the approved Work Plan and Budget (RKAB), as a reference document that ensures order, transparency, and environmental responsibility. Thus, the WIUP serves as a state control and oversight function for business actors to ensure they continue to operate according to regulations and prevent environmental damage or social conflict. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Soekanto, 2005)

The process of determining Mining Business Permit Areas (WIUP) is carried out strictly, involving various relevant agencies, under the coordination of the Minister of Energy and Mineral Resources (ESDM). This stage includes geological data collection, mineral reserve analysis, land legality verification, and synchronization with national and regional spatial plans. A participatory mechanism is implemented through consultation with local governments and the House of Representatives (DPR) as a manifestation of transparency and accountability. After determination, prospective IUP holders are required to meet strict administrative, technical, environmental, and financial requirements, including the preparation of an Environmental Impact Assessment (EIA) or other environmental documents. With this procedure, the state ensures that WIUPs are only awarded to parties that are legally, economically, and technically eligible and capable of carrying out mining activities responsibly. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019)

The normative principles in the regulation of Mining Business Permit Areas (WIUP) emphasize the principles of legal certainty, sustainability, justice, and spatial integration. Several important principles that must be met include: first, Mining Business Permit Areas (WIUP) can only be established in areas with real mineral and coal resource potential based on valid geological data. Second, Mining Business Permit Areas (WIUP) must not overlap with community mining areas (WPR), state mining areas (WPN), or special mining business areas (WUPK). Third, Mining Business Permit Areas (WIUP) must be in harmony

with regional spatial planning to avoid conflicts of interest in land use. Fourth, Mining Business Permit Areas (WIUP) must consider business sustainability and environmental rehabilitation, including in ex-mining areas. These principles demonstrate that Mining Business Permit Areas (WIUP) are not merely oriented towards short-term economic profit, but also accommodate long-term environmental sustainability and protection. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Soekanto, 2005)

From the perspective of the theory of authority, the regulation of Mining Permit Areas (WIUP) is a legitimate and limited exercise of state authority. The Minister of Energy and Mineral Resources has administrative authority to establish Mining Permit Areas (WIUP) based on direct delegation from the Mineral and Coal Mining Law. Furthermore, IUP holders are granted exclusive authority to manage these areas, subject to strict state oversight. This authority reflects the principle of legality, which states that all actions by the government and business entities must be based on law. The distribution of authority also reflects the principle of decentralization, where regional governments play a role in the planning and oversight process, ensuring that Mining Permit Area management aligns with local conditions and community aspirations. (Ali, 2002; Ibrahim, 2006) (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Sulaiman, 2017; Ibrahim, 2006)

The theory of legal regulation formation is also relevant in the context of Mining Business Permit Areas (WIUP), particularly regarding the principles of legality, transparency, participation, and proportionality. The determination of a Mining Business Permit Area (WIUP) is not merely seen as an administrative policy, but also as a legal product that must meet the formal and material requirements for regulatory formation. Integration with regional spatial planning, community involvement, and the use of scientific data demonstrate that Mining Business Permit (WIUP) regulations are formulated with a principle of prudence. Thus, regulations regarding Mining Business Permit Areas (WIUP) can be legally, politically, and academically accounted for. This is crucial to prevent the creation of regulations that conflict with the constitution or are vulnerable to judicial review. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Soekanto, 2005) (Arba, 2018)

By considering the legal authority, regulatory principles, and sustainability principles, the regulation of Mining Business Permit Areas (WIUP) can be understood not merely as a

technical instrument for mining management, but also as a legal instrument governing the distribution of the country's strategic resources. The establishment of WIUP reflects the state's efforts to maintain a balance between economic interests, environmental protection, and social justice. Furthermore, this regulation also serves as a means to prevent conflicts of interest, both among business actors and between business actors and local communities. Therefore, WIUP must be viewed as a crucial pillar of the national mining legal system, which demands consistent application of the principles of legality, transparency, participation, and sustainable development. (Ali, 2002) (Dewi & Hasan, 2020; Soerodjo, 2021) (Barhamudin, 2019) (Sulaiman, 2017) (Sulaiman, 2017; Ibrahim, 2006) (Soekanto, 2005)

4. CONCLUSION

The urgency of regulating the resolution of overlapping Mining Business Permit Areas (WIUP) stems from the need to provide legal certainty, protect the rights of permit holders, and optimize natural resource management. The phenomenon of overlapping permits that has occurred has led to disharmony in authority between institutions, horizontal conflicts between permit holders, and even state losses due to suboptimal revenues from the mining sector. Normatively, this condition indicates a legal vacuum (*rechtsvacuum*) as well as weak administrative coordination, which creates uncertainty for both business actors and the government. Therefore, clear, integrated regulations are needed, based on the principles of legality, justice, and sustainability, so that mining governance can run in an orderly, transparent, and accountable manner.

The formulation of regulations for resolving overlapping Mining Business Permit Areas (WIUP) should ideally be realized in comprehensive, systematic, and applicable implementing regulations. These regulations should emphasize the centralization of authority in the hands of the Central Government in accordance with Article 171B of Law No. 2 of 2025, and be equipped with an evaluation mechanism based on integrated spatial data and a national mining information system. Dispute resolution needs to be carried out transparently through stages of permit evaluation, clarification of permit holders, firm administrative decision-making, and providing a space for objections as a form of legal protection. In addition, ideal regulations should not only emphasize repressive aspects such as permit revocation, but also prioritize preventive, adaptive, and solution-oriented approaches. In this way, the resulting regulations are expected to minimize conflict, strengthen the investment climate, and ensure the utilization of natural resources oriented

towards social justice, environmental sustainability, and the prosperity of the people, as mandated by the constitution.

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