

Transparency of Regulatory and Public Participation of Law Number 4 Year 2009 of Mineral and Coal Mining in Indonesia

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Abstract

Mineral and coal contained in the Indonesian mining jurisdiction is a non-renewable natural resources as a gift of God Almighty who has an important role in fulfilling the lives of many people. If it is not managed properly, it will keep the ideals for the greater prosperity of the people. as mandated in Article 33 paragraph (3) of the Constitution of NRI 1945. One of the principles in the management of mineral and coal mining in Indonesia is the principle of transparency and participatory. Based on this background, the formulation of the problem in this research is what legal considerations so that transparency and participatory been a principle in the management of mineral and coal and how the settings in Law No. 4 Year 2009 on Mineral and Coal Mining. The type of this research is normative juridical analysis by using qualitative methods. The research found that the legal consideration that the transparency and participatory have been a principle in the management of mineral and coal mining is because Indonesia is a democratic constitutional state, where the fundamental principle of the pillars of the country's main law one of which is to observe the principles of transparency and public participation, so that the management objectives mining and coal for the prosperity and welfare equitably be realized. the setting of transparency and public participation contained in Article 2, Article 10 and Article 64 of Law No. 4 Year 2009 on Mineral and Coal Mining.

Keywords: Transparency, Public Participation, Mineral and Coal Mining

A. Introduction

The purpose of the Republic of Indonesia as to which are listed in the fourth paragraph of NRI Constitution of 1945 is: "... that protect the entire Indonesian nation and the entire homeland of Indonesia, promote the general welfare, educating the nation and participate in implementing world order based on freedom, lasting peace and social justice "Therefore, the state law also built and designed to protect and provide welfare for all Indonesian people. The mandate of promoting the general welfare further elaborated in Article 33 paragraph (3) NRI Constitution of 1945 as follows: land and water and natural resources contained in it are controlled by the state and used for the people's welfare.

State's right to control the power of the State has no meaning in three areas, namely arrange (*regelen*), taking care (*besturen*) and supervision (*toezichthouden*)¹. State great mastery of the earth, water and space, including the natural resources contained therein is certainly proportional to the obligation for the welfare of its people.

The concept of State sovereignty of the people is the State which is deemed to be the highest authority in the hands of the people. Powers constructed (i) is derived from the people, (ii) is done by the people through representatives or envoys, (iii) the activities of the power is held together with the people, as well as all of the functionality and operation of power it is intended to benefit the people. The concept of such state is called a democracy. Democracy is democracy which is based on law, which is the highest law is UUD or the Constitution.

If the laws do not reflect the sense of justice in the society, because they are set as not democratic and participatory, it is difficult to expect to be adhered to and implemented righteously by the legal subjects.² In a democracy, ultimate power is in the hands of the people. Power itself related to the political, economic and social. Definition of democracy includes political democracy, economic democracy. NRI based on the Constitution of 1945, the concept of democracy or people's sovereignty principle includes the notion of a political and economic sense as well. Indonesia citizen considered sovereign or the highest authority, both in politics and in economics.

Indonesia is a rich country in natural resources. The wealth of resources also causes the Indonesian nation was colonized for more than three and a half centuries by foreign nations³. For the people of Indonesia

¹Abrar Saleng, *Mining Law*, (Yogyakarta: UII Press, 2004), p. xii

²Jumli Asshiddiqie, 2010. *Constitutional Economics*, (PT.Kompas Media Nusantara: Jakarta), p. 361.

³ Mohammad Hatta in Memoir, 1979, citing the phrase famous are often spoken of a teacher of earth science called Van der Veen to school children in Sumatra in the early twentieth century: *Molukken is het verleden, Java is het Heden en Sumatra is de Toekomst*, expression which means Maluku past, present Java and Sumatra future, it is intended to describe the act of colonial in various dredge great wealth in the archipelago. In Bandung Mawardi, *Chronic Spice Islands*, which quoted from M. Adnan Amal, the Spice Islands: Travel North Maluku History 1250-1950 (Kompas June 6, 2010), p. 19 50

natural resources is a vital factor of life, not just a factor of production in the economic sense, but also a social significance, political, cultural and even religious tend implies¹. Mineral and coal contained in the Indonesian mining jurisdiction is a wealth of non-renewable natural as a gift from Lord of the Almighty with an important role in meeting the livelihood of many people, therefore the management should be controlled by the State to provide value-added significantly to the national economy in order to achieve prosperity and welfare of the people equitably. Ideals of Indonesia in controlling of natural resources, including mineral resources, constitutionally based on Article 33 paragraph (3) of the Constitution of NRI 1945. One of the principles in the management of mineral and coal mining in Indonesia is the principle of transparency and the principle participatory.²

B. Research Purposes

The purpose of this study was to determine the legal considerations that transparency and participatory to be a principle in the management of mineral and coal and the setting in Law No. 4 Year 2009 on Mineral and Coal Mining.

C. Research Methods

This study focused on normative legal research, which analyzes the substance of the law and thus can't be separated from the normative method of analysis, which departed from legislation that has the power of authority as the primary legal materials. The approach used in this study is the approach of law (*statute approach*). Primary legal materials needed in the study include: NRI Constitution of 1945; Legislation related to current mining or never apply before, legislation related to Regional Autonomy Act No. 39 of 1999 on Human Rights; Law Number 32 of 1999 on the Protection and management of the Environment, Act No. 14 of 2008 on Public Information. Law No. 30 of 2014 on Government Administration; Law No. 25 of 2009 on Public Service. Secondary law is needed in this study of all publications on the law which is not an official document, such as books, dictionaries and law journals, as well as comments on the court decision³, including expert opinion that was published in the print media (newspapers and magazines) and electronic media, especially the internet

D. Discussion

1. Transparency and Public Participation

NRI 1945 Constitution in Article 28F states that every people has the right to communicate and obtain information to develop personal and social environment, and the right to seek, obtain, possess, store, and process and convey information by using all available channels.

The passing of Law No. 14 of 2008 on Public Information (UU KIP) by the House of Representatives on April 3, 2008 the momentum of public disclosure become more obvious. Freedom of Information Law comprehensively regulates the obligation bodies / public authorities to provide access to information, documents and data are integrated as an inherent part of the functions of government bureaucracy, reinforced with tough sanctions for violators.

Transparency of public service is an implementation of the tasks and activities that are opened (transparent) to the public policy process, planning, implementation and monitoring / control, and easily accessible to all those who need the information. Article 3 of Law No. 14 of 2008 on Public Information (UU KIP) states that the purpose of the Freedom of Information Law;

- a. guarantee the rights of citizens to know the plan of public policy, public policy programs, and public decision making process, as well as the reason for making a decision public;
- b. encouraging community participation in public policy making process;
- c. Improving people's active participation in policy making and management of existing public bodies;

¹ For example, the Kamoro and Amungme, gold as a symbol of the prosperity of the world is actually a sacred object. Mount Ertberg (ore mountain) found by a Dutch geologist, Jean Jacques Dozy in 1936, it was a place of worship or **Dugu-Dugu** for indigenous peoples there. The mountain was regarded as mama (mother) could provide for subsistence so that should not be tampered with. (*Kompas*, March 11, 2006), P.53.

² In the management of natural resources there is the principle: first, the principle of conservation and sustainability, the second principle of justice, third, democratic principles, the fourth, the principle of transparency, the fifth principle of public participation and accountability, the sixth, the principle of eco-efficiency, the seventh, the principle of the protection of biodiversity, see the proceedings of seminars and regional workshops Non Riau Mandiri - Smeru "Reflections on the Implementation of regional Autonomy and Sustainable Management of Natural Resources" in Pekanbaru June 25, 2003, p. 10.

³ Peter Mahmud Marzuki, op.cit. Hlm.141. Compare with Soerjono Seokanto and Sri Mamudji, *Legal Research Normative: A Brief Overview*, (Jakarta: King Grafindo Persada, 1994), p. 12-13, the which divides the normative legal legal research materials into three classifications items, namely the primary legal materials, secondary and tertiary law legal materials .

- d. Realize the implementation of the State is good, that is transparent, effective and efficient, accountable and accountable;
- e. Knowing the reasons of public policy that affects the lives of many people;
- f. Developing science and educating the nation and / or
- g. Improve management and information services within the public body to produce a quality information service.

One part of the substance of human rights that have been recognized by the UN as part of human rights since the first generation was the Right to Freedom of Information. Since 1946 the United Nations adopted Resolution 59 (1) which states that "freedom of information is a fundamental human right and is a sign of all the freedom that the focal point of the UN"¹

The principle of public participation (*public participation*) is an important element in the implementation process of democracy, the meaning of which provide opportunities their active participation in the processes of decision-making, particularly communities that are directly affected by a development activity as a result of public policy (*public policy*).²

Sherry Arnstein in *A Ladder of Citizen Participation* making schemes are 8 levels of popular participation in policy decisions, first, the control of citizens (*citizen control*), second, delegation of powers (*delegated power*), the third partnership (*partnership*), fourth, damping (*placation*), The fifth consultation (*consultation*), sixth notification (*informing*), seventh, therapy (*therapy*) eighth, manipulation (*manipulation*)³

Asshiddiqie thirteen main principles of a constitutional state (*rechstaat*), which became the main pillar prop up the establishment of the modern state that can be called as the State Law (*The Rule of Law* or *Rechstaat*) in the true sense, one of which is a lack of transparency and social control open to every process of making and law enforcement, so that weaknesses and deficiencies contained in the formal institutional mechanisms can be equipped complementarily by direct public participation (direct participation), in order to ensure fairness and truth⁴

State law (*rechtsstaat* or *the rule of law*) is itself the ideal of a democratic constitutional state (*democratic rule of law, demokratische rechtsstaat*). A State law can stand alone without being accompanied by democracy. For example, a State can only be effectively enforce the law, but if the law were enforced was not made based on the principles of democracy, the rule of law is thus not a State democratic law.⁵ Thus, there is a very strong and even complementary and pairing between the idea of Democracy and the State of Law. Both are united in the conception of the 1945 Constitution of the sovereignty of the State or the highest authority in the State of RI. Such understanding is what is reflected in the provisions of Article 1 Paragraph (2) and (3) of the 1945 balance and the complementary relationship between both of them are very important to ensure that the rule of law and democratic ideas that produce results as well as possible in the form of freedom (*freedom*), justice (*justice*) and welfare (*prosperity*).⁶

UU no. 30 Year 2014 on Government Administration specifically actualizes the constitutional norm the relationship between the state and citizens. Settings Administration in this legislation is an important instrument of a democratic constitutional state, where decisions and / or actions are assigned and / or carried out by the agency and / or government officials, or other state apparatus that includes institutions outside the executive, judiciary and legislative carrying out government functions that allow it to be tested through the courts. These are the ideals of a state of law. Implementation of state power must side with the citizens and not vice versa. The decision and / or action agency and / or official government against citizens can not be done arbitrarily. By this Law, residents citizen will not easily become the object of state power.

¹Coalition for Freedom of Information, *against insularity Towards Open Government Information*. (Jakarta, 2003).

²Bambang Sugiono and Ahmad Husni, 2000. Rule of Law and Democracy, Law Journal Ius Quia Iustum No. 14, Vol. 7, p. 79

³Bimo Nugroho, Partisipasi Rakyat Membuat UU, *artikel* opini dalam harian Kompas Agustus 2002

⁴Jimly Asshiddiqie "Cita Country Indonesia Contemporary Law" in Isrok and Rizki Emil Birham, *Citizen Lawsuit, Alternative Law Enforcement for Citizens* (UB Press: Jakarta, 2010), p. 11⁴.

⁵In the history of Germany, during the Weimar Republic (1919-1933), which was formed after the German Revolution of 1918 overthrew the empire of German hereditary rulers into a parliamentary republic. During the reign of the Weimar Republic's freedom grow uncontrollably and highly irregular, in the Indonesian language associated with the term "excessive". As a result, many people tired, bored and antipathy towards the idea of freedom and democracy itself. Conditions such political social psychology that causes a man named Adolf Hitler with the Nazi Party in 1933 the which at the time was hailed by his supporters as a kind of society in Indonesia Ratu Adil. After Hitler Came to power, the government of the Republic of Germany is not unlike Seemed back into shape, Because not much difference between the Government by the Emperor of Germany with Hitler's dictatorship (*the reign of the Emperor's Hitler's dictatorship*). This is the beginning of the most severe human tragedy and the many casualties, the World War II. Here's an example of democracy without the rule, *democracy without the rule of law*

⁶ Jimly Asshiddiqie, hlm.362.

2. Mining Operations

In Law No. 4 of 2009 on Mineral and Coal Mining visible strengthening of Tenure State (HPN) to natural resources. Government organized this principle through the authority to regulate, administer, overseen the management of the mining business. It starts with a change into a licensing contract system becomes.¹ In the contract, as applied during this time, the position of the government is not only ambiguous as the regulator and the contracting parties, but fundamentally also degrading position of state-level contractor.

To carry out the business of consideration. Needed Mining Business License (IUP). Based on the PP 23 of 2010 about the Implementation of Mineral and Coal Mining Operations, IUP granted by the Minister, governor or regent / mayor in accordance with its authority based on the application submitted by:

- a. business entities may be private enterprises, state, or local government
- b. cooperative,
- c. individuals, can be either individuals, corporate firms, or companies limited partnership

IUP is given through two phases, the first phase of the provision of region IUP, IUP second stage.

UU No. 4 Year 2009 on Mineral and Coal Law supersedes 11 Year 1967 on Basic Provisions of Mining (UUKPP). In the context of the control and management **Minerba** Mining Law Article 4 stipulates that:

"Minerals and coal as a source of non-renewable natural resources are national assets controlled by the state for the benefit of the people" There are three essential elements contained in Article 4 of the Mining Law are:

1. Mineral and coal as a source of non-renewable natural resources are national assets;
2. authorized by the State;
3. for the greater welfare of the people.

One of the main ideas contained in Law No. 4 of 2009 on Mineral and Coal Mining is in order to create sustainable development, mining activities should be carried out with due regard to environmental principles, transparency and public participation

Article 2 Mining Law states that the mineral and / or coal-managed principal: benefits, fairness, and balance; siding with the interests of the nation; participation, transparency, and accountability; sustainable and environmentally friendly.

In Article 10 of Mining Law states that the determination of mining area to be transparent, participatory, and accountable; an integrated manner with regard to the opinion of the relevant government agencies, communities, and taking into account the ecological, economic, social and cultural, as well as environmentally sound; and with due regard to regional aspirations.

In addition to Article 2 and Article 10 of Mining Law, Article 64 contains the principles of transparency and participation, as follows:

Government and local governments in accordance with their authority **is obliged to announce the planned mining activities** in WIUP as referred to in Article 16 and provide IUP Exploration and Production Operation IUP as referred to in Article 36 **to the public openly**.

There are three degrees of participation by Sherry Arnstein ²:

1. Not participatory (*non-participation*);
2. The degree of apparent (*degrees of tokenism*); and Intermediate degrees of (pseudo) consist of three levels of participation, namely: notification (*informing*); consultation (*consultation*); and mitigation (*Placation*). In this phase of the expansion of the existing levels of participation, the public is able to hear (the notification level) and be heard (level of consultation), but once this stage has not provided a guarantee clear to the public that their vote counted in determining the outcome of a public policy. At this stage of the reduction is already allowing people in general who are especially vulnerable to give feedback more significant in determining the outcome of public policy, but the decision-making process is still held by the holder full power.
3. **The strength of the community** (*degrees of citizen power*) Consisting of three levels of participation, the partnership (*partnerships*), the delegation of powers (*delegated power*), and the top is the control of the public (*citizen control*). In this stage the participation of the community, including vulnerable already in the space determination process, outcomes and impacts of the policy. The community has been able to negotiate with traditional rulers in political positions parallel (partner level). Even further capable of directing policies for

¹ Contract of Work / Work Agreement, is the kind permission of mining exploitation granted to foreign companies and foreign investment (FDI), while the Mining Authority (KP) and the Power of the People's Mining (KPR) is a type of exploitation permit for mining given to national companies and people;

²Rival G. Ahmad et al, 2003, From Parliament to Public Space: Promoting participative Policy-making in the Journal of Law Insight Edition 2, 2003, PSHK, Jakarta, p. 108.

decision-making has been mastered space (level delegation of power). So that in the final stage of public participation has reached the peak, that is when the people are politically and administratively been able to control the process, the establishment, implementation, and policy (the level of community control).

The basis for determining the degree of participation rather than on how far the community has been involved in the formation of policies or programs implemented by the state, but how far people can determine the outcome or impact of the policy or program.

Article 174 Mining Law, states that the regulations implementing Mining Law should have been set within 1 (one) year since the Act was enacted. Furthermore, on February 1, 2010, has issued Government Regulation No. 23 Year 2010 on the Implementation of Mineral and Coal Mining (PP **Minerba** PKU). In PP is no explanation regarding the obligation of the government to announce plans of mining business activities to the public openly, which is in Article 10 of Government Regulation No. 23 of 2010 ¹ stated that:

Before the auction WIUP metal mineral or coal as meant in Article 8 paragraph (3), minister, governor or regent / mayor in accordance with their authority **publicly announced** WIUP that will be auctioned to businesses, cooperatives, or individuals within a maximum period of 3 (three) months before the auction.

Based on the opinion Sherry Arnstein mentioned above, then the announcement of the mining activities in the category of participation degrees apparent (*degrees of tokenism*) where the decision-making process is still held by the holder full power.

Mining Law contains basic thoughts as follows:

1. Mineral and coal as nonrenewable resources and the development and controlled by utilization implemented by the Government and the local government together with entrepreneurs.
2. The government subsequently provides the opportunity for business entities incorporated under Indonesian, cooperatives, individuals, and local communities to conduct mineral exploitation and coal based license, which is in line with regional autonomy, granted by the Government and / or regional government in accordance with their respective authorities.
3. In the framework of the implementation of decentralization and regional autonomy, the management of mineral and coal carried out based on the principle of externality, accountability, and efficiency involving the Government and local governments.
4. Mining efforts should benefit the economy and the greatest for the welfare of the people of Indonesia.
5. Mining business should be able to accelerate the development of the region and encourage economic activity in the community / small and medium entrepreneurs and encourages the growth of supporting mining.
6. In order to establish sustainable development, mining activities should be carried out with due regard to environmental principles, transparency, and public participation.

3. **Regional Autonomy**

During the administration of President BJ Habibie published two laws on regional autonomy, Law No. 22 of 1999 dated May 7, 1999 on Regional Government in lieu of Law No. 5 of 1974 dated July 23, 1974 on the Principles of Regional Government, and the Law N0. 25 of 1999 dated May 19, 1999 on Financial Balance between the Central Government and Local Government. Both of these laws is a new paradigm of local autonomy in governance based on principles of democracy, the role of community, equity, and diversity of the area, as well as the relationship between central and local. Management focused on the regional administration of the district / city.

With the publication of these two laws fundamental changes that have an impact on regional finances, particularly the percentage of profit sharing natural resources in forestry, petroleum, natural gas, and minerals. As well as giving authority to the regions to hold borrowing from domestic resources and financial management areas with the requirements in accordance with the regulations.

Lima Province which is the largest contributor to the state revenues from mining are Aceh, Riau, South Sumatra, East Kalimantan, Papua. Based on the data on state revenues can be seen that the Aceh Provincial Budget accounted for an average of 11.6% but only received assistance from the center or back to Aceh approximately 0.56% a year. Riau province accounted for 32.5%, subsidies from the central government of Riau

¹ Government Regulation No. 23 Year 2010 on the Implementation of Business Activities Mineral and Coal Mining (State Gazette of the Republic of Indonesia Year 2010 Number 29, Supplement to the State Gazette of the Republic of Indonesia Number 5111) as Amended by Government Regulation No. 24 Year 2012 on Amendment of Government Regulation Number 23 year 2010 on the Implementation of Business Activities Mineral and Coal Mining (State Gazette of the Republic of Indonesia year 2012 Number 45, Supplement to the State Gazette of the Republic of Indonesia Number 5282, and in 2014 has been Amended by Government Regulation No. 1 of 2014 on the Second Amendment to Government Regulation No. 23 year 2010 on the Implementation of Mineral and Coal Mining Business

province received approximately 0.46%.¹ These conditions, especially in areas rich in natural resources led to the separatist movement and the riot cases, to the scale of the breakaway of the Homeland. The exit of Act No. 22 of 1999 on Regional Government and Law No. 25 of 1999 on Financial Balance Regional Centre, seems quite down out the demands of the regional aspirations. In order to answer dissatisfaction that area, then taken the policy to give greater devolution of power to regional governments.²

At the beginning of the reform published Law No. 22 Year 1999 on Regional Government which gives very broad powers to the provinces and districts or cities. In Article 10 paragraph (1) of Law No. 22, 1999 stated: Local authorities manage the national resources available in the region and is responsible preserve the environment in accordance with the legislation.

At the beginning of the enactment of Law No. 22 of 1999 on Regional Government, later replaced by Act No. 32 of 2004 on Regional Government hopes is the occurrence of a major change in Indonesia to accelerate the realization of public welfare. The regional governments were set up and manage their own affairs in accordance with the principle of autonomy and duty of assistance, directed to accelerate the realization of public welfare through the improvement of service, empowerment, and community participation, as well as increased competitiveness of the region with regard to principles of democracy, equity, justice, privilege and exclusivity a region in the Republic of Indonesia. The changes are expected to bring Indonesia better direction with the formation of the government that is clean (free of corruption, collusion and nepotism), democratic governance, open and pro-community. Law No. 22, 1999 substituted, Act No. 32 of 2004 on Regional Government adheres to three ideas that improve the quality of people's lives, the quality of government services and the optimization of community participation in development³

In 2014, Law No. 32 of 2004 on Regional Government replaced by Act No. 23 of 2014 on Regional Government, the legislation recently mentioned that the regional administration is directed to accelerate the realization of public welfare through the improvement of service, empowerment, and community participation, as well as increased competitiveness of the region with regard to principles of democracy, equity, justice, and distinctiveness of an area within the Unitary State of the Republic of Indonesia. So in this law embraces four ideas are:

1. improvement of services;
2. empowerment;
3. community participation;
4. to increase regional competitiveness.

With the principles that must be considered in the regional administration of the following principles:

1. democracy;
2. equalization;
3. the peculiarities of an area within the Unitary State of the Republic of Indonesia.

As for the field of energy and mineral resources in Article 12 paragraph (3) of Law No. 23 of 2014 is one of governmental affairs selection, which is part of the government affairs concurrent namely government affairs is shared between the central government and the provincial and district / city .⁴

In connection with the management of sector energy and mineral resources, the implementation of regional autonomy is expected to bring a change of mindset in the management to service improvement, empowerment, and community participation, as well as increased competitiveness of the region with regard to

¹Sri Soemantri M. "The Role of Law in Indonesia New Era Brought into the 21st century, *paper* National Seminar on Identification of Problems of implementation of Law No. 22 of 1999 and Law No. 25, 1999", PPs-Padadjaran University, Bandung

²Aspinall, E. and G. Feally (eds), *Local Power and Politics in Indonesia; Decentralization and Democratization*, (Singapore; Institute of South East Asian Studies, 2003), p 2

³ Peni Chalid, *Autonomy, Empowerment and Conflict Issues* (Jakarta, Partnership, 2005), p. 3

⁴ Classification of government affairs pursuant to Article 9 of Law No. 23, 2014 are as follows::

1. Government Affairs consists of absolute government affairs, government affairs concurrent, government and public affairs.
2. Absolute government affairs Referred to in paragraph (1) is a wholly Government Affairs under the authority of the Central Government.
3. Concurrent administration matters Referred to in paragraph (1) is a Government Affairs of the which is divided between the central government and the province and the Regional regency / city.
4. Government affairs concurrent submitted to the Region Became the basis of the implementation of regional autonomy.
 - 1) Government public affairs as Referred to in paragraph (1) is a Government Affairs who Became the President's authority as head of government

Article 14 paragraph (1):

Implementation of Government Affairs in forestry, marine, and energy and mineral resources are shared between central and local government of the province. .

principles of democracy, equity, justice, privilege and exclusivity an area.

This expectation is based on previous experience from the colonial period until the new order had been put very little value on the sustainability of natural resources (maintenance and justice), so that there is massive exploitation of natural resources that exist. In the last 10 years, precisely since the implementation of regional autonomy, the number of mining concessions in Indonesia reached 8,400 KP. Many KP violation of the provisions, overlap with other KP, even venturing into the forest conservation. Yet until now, the central government only spends about 650 to 700 coal mining exploitation work agreement (PKP2B)¹

E. CLOSING

Legal considerations so that transparency and participatory been a principle in the management of mineral and coal mining is because Indonesia is a democratic constitutional state, where the fundamental principle of the pillars of the country's main law one of which is to observe the principles of transparency and public participation, so the purpose of administering the mineral and coal mining for prosperity and equitable welfare of the people can be achieved. the setting of transparency and public participation contained in Article 2, Article 10 and Article 64 of Law No. 4 Year 2009 on Mineral and Coal Mining.

Bibliography

- Abrar Saleng, *Mining Law*, Yogyakarta: UII Press, 2004
- Aspinall, E. and G. Feally (eds), *Local Power and Politics in Indonesia; Decentralization and Democratization*, (Singapore; the Institute of South East Asian Studies, 2003), p 2
- Bambang Sugiono and Ahmad Husni, Rule of Law and Democracy, *Law Journal Ius Quia Iustum* No. 14 Vol. 7, 2000.
- Asshiddiqie, Constitutional Economics, PT .Kompas Media Nusantara: Jakarta, in 2010.
- Ornop Riau Mandiri - Smeru "Reflections Implementation Regional Autonomy and Sustainable Management of Natural Resources "Proceedings of seminars and regional workshops in Pekanbaru June 25, 2003
- Soerjono Seokanto and Sri Mamudji, *Normative Legal Research: A Brief Overview*, Jakarta: King Grafindo Persada, 1994
- Rival G. Ahmad et al, 2003, From Parliament to Public Space: Promoting Participative Formulation of Policy, *Law Journal Insight Edition 2 2003*, PSHK, Jakarta
- Peni Chalid, *Autonomy, Empowerment and Conflict Issues* .Jakarta, Partnership 2005
- Peter Mahmud Marzuki, *Legal Research*. Jakarta: Kencana Prenada Media Group 2005
- Isrok and Rizki Emil Birham, *Citizen Lawsuit, Law Enforcement Alternative for the Citizen*. UB Press: Malang 2010
- Coalition for Freedom of Information, *insularity Fight Towards Open Government Information*, Jakarta, in 2003
- Bimo Nugroho, Creating People's Participation Act, opinion *article* in the daily Kompas August 2002
- Bandung Mawardi, *Chronic Spice Islands*, which quoted from M. Adnan Amal, the Spice Islands: History Journey North Maluku 1250-1950. Kompas June 6, 2010
- NRI Constitution of 1945.
- Law No. 4 of 2009 on Mineral and Coal Mining
- Law No. 39 of 1999 on Human Rights;
- Law Number 32 of 1999 on the Protection of the Environment and the management of
- Act No. 14 of 2008 on Public Information.
- Law No. 30 of 2014 on Government Administration
- Law No. 25 of 2009 on Public Service
- Law Number. 30 Year 2014 on Government Administration
- Law Number 23 Year 2014 on Regional Government
- Government Regulation No. 23 Year 2010 on the Implementation of Mineral and Coal Mining Business
- Government Regulation No. 24 Year 2012 on Amendment to Government Regulation No. 23 Year 2010 on the Implementation of Mineral and Coal Mining Business
- Government Regulation No. 1 Year 2014 regarding the Second Amendment to Government Regulation No. 23 Year 2010 on the Implementation of Mineral and Coal Mining Business
- Evy Rachmawati, "Would Mining Licensing Law and Order"
- http://regional.kompas.com/read/2010/01/28/21551726/mining_licensing_will_be_diciplined. accessed 23/4/2011

¹Evy Rachmawati, "Would Mining Licensing Dicipined" http://regional.kompas.com/read/2010/01/28/21551726/mining_licensing_will_be_diciplined. accessed 23/4/2011