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## Mining Business Licenses in the Perspective of Administrative Law Between State Authority and Community Rights

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**Abstrak:** *The Mining Business License (IUP) is the main legal instrument in the management of mineral and coal resources in Indonesia. The revision of the Mineral and Mineral Law changes the authority to grant permits from the local government to the central government with the aim of reducing the practice of overlapping permits and corruption and strengthening the effectiveness of supervision. However, this centralization policy poses new challenges in the form of reduced role of local governments, limited community participation, and increased potential for social conflicts with indigenous peoples. This study used the Systematic Literature Review (SLR) method with the PRISMA procedure on 971 articles, until 50 relevant articles were selected for analysis. The results of the study show that the practice of protecting the rights of communities, especially indigenous peoples, is still weak due to the lack of application of the Free, Prior, and Informed Consent (FPIC) principle. In addition, maladministrative practices, weak law enforcement, and lack of transparency worsen the governance of the mining sector and ignore the principle of intergenerational justice. This study confirms the existence of research gaps related to the effectiveness of authority centralization, community-based supervision models, FPIC implementation, and systematic studies of intergenerational justice in mining licensing. These findings contribute to strengthening the legal analysis of mining administration and open up opportunities for regulatory reform towards fairer, accountable, and more sustainable governance.*

**Keywords :** *Mining Business License; Administrative Law; Centralized; Indigenous*

### INTRODUCTION

Mining Business Permits (IUP) are the main instruments used in the management of mineral and coal resources in Indonesia. As part of state policy, IUP gives the government the authority to regulate and control mining activities. However, in granting such permits, the state also bears a major responsibility to protect people's rights, including the right to a healthy environment, access to information, and participation in decision-making. Along with the development of regulations, especially after the revision of the Mineral and Mineral Law, there has been a shift in authority from the local government to the central government. The main goal of this centralization is to overcome overlapping permits, corruption, and strengthen more

effective supervision of the mining sector<sup>1</sup>. However, this policy poses new challenges. One of them is the limited role of the region in resource management and supervision of the environmental impact caused. This also leads to potential conflicts with local communities, especially with indigenous peoples who feel their rights are being neglected. The role of indigenous peoples in mining-related decision-making is often overlooked, even though they have a constitutional right to participate in the process, in accordance with the principles of Free, Prior, and Informed Consent (FPIC).

<sup>1</sup> Kasim, A., Yodo, S., Rimi, A., & Patila, M. (2023). Mining Business Licensing in Indonesia: Perspective of Administrative Law After the Revision of the Mineral and Coal Law. *Russian Law Journal*. <https://doi.org/10.52783/rlj.v11i3.1538>

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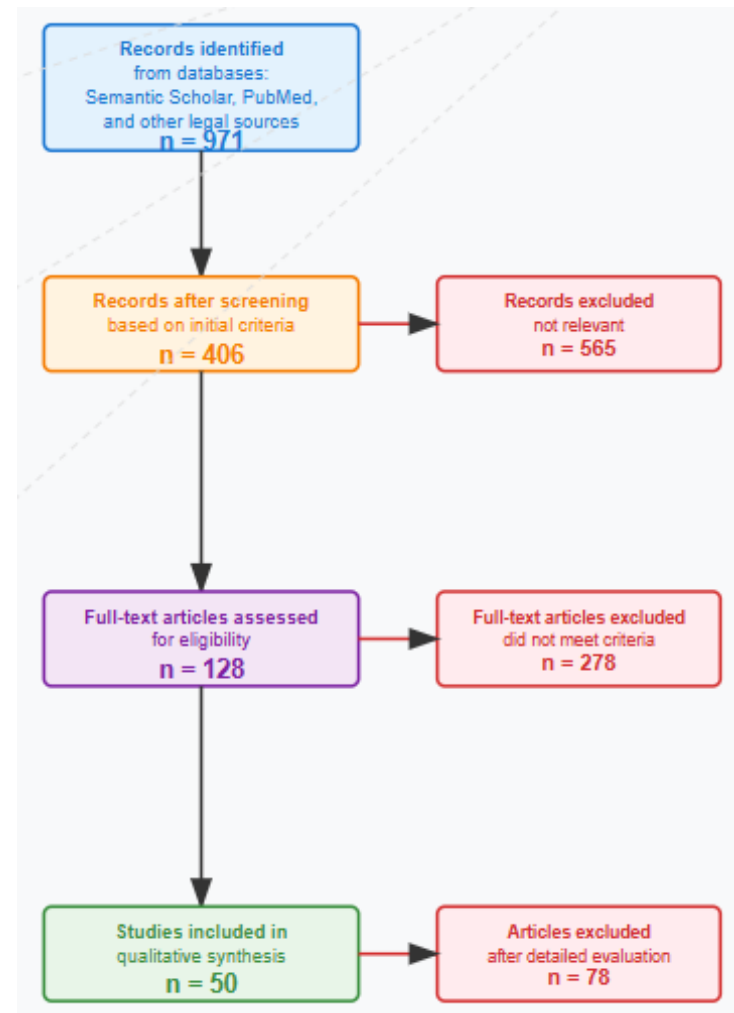
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Recent studies show that there are still many cases involving non-compliance with these principles, leading to environmental damage and social conflicts<sup>2</sup>.

Regulations governing mining permits must be able to create a balance between the state's interests in natural resource management and the protection of people's rights, in order to achieve sustainable development that is fair and equitable. Thus, the discussion in this review will focus on the dynamics of state authority in granting IUPs, challenges in protecting people's rights, and the potential for maladministration that still occurs in this licensing process.

## METHODOLOGY

The research was conducted with a literature review approach through relevant scientific sources, which includes more than 170 million publications in various databases such as Semantic Scholar, PubMed, and other leading legal sources. The literature selection process was carried out systematically using the PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) procedure, which began with the identification of 971 relevant articles. From these articles, a screening process was carried out, and the final result was 50 articles that were selected for further analysis. The literature selection process can be seen in the following PRISMA Flowchart:



**Figure 1:** Diagram of the Literature Selection Process Related to IUP and Administrative Law

## RESULTS AND DISCUSSION

### 1. Dynamics of State Authority in the Granting of IUP

The revision of the Mineral and Mineral Law (Law No. 3 of 2020) changes the authority to grant IUPs from the local government to the central government. The main goal of this centralization is to reduce corrupt practices, overlapping permits, and increase more effective supervision of the mining sector<sup>3</sup>. However, while there are

<sup>2</sup> Guntur, S. (2025). The Nature of the Granting of Mineral Mining Business Licenses by Local Governments (A Study of the Southeast Sulawesi Province). *Pakistan Journal of Life and Social Sciences (PJLSS)*. <https://doi.org/10.57239/pjlss-2025-23.1.00536>

<sup>3</sup> Kasim, A., Yodo, S., Rimi, A., & Patila, M. (2023). Mining Business Licensing in Indonesia: Perspective of Administrative Law After the Revision of the Mineral and Coal Law. *Russian*

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advantages in addressing these issues, centralization also reduces the role of regions in natural resource management, which in turn lowers the level of community participation and oversight of the environmental impacts it causes. This has led to resistance from local governments who feel they have lost their autonomy, as well as from people who feel that their rights are being neglected<sup>4</sup>.

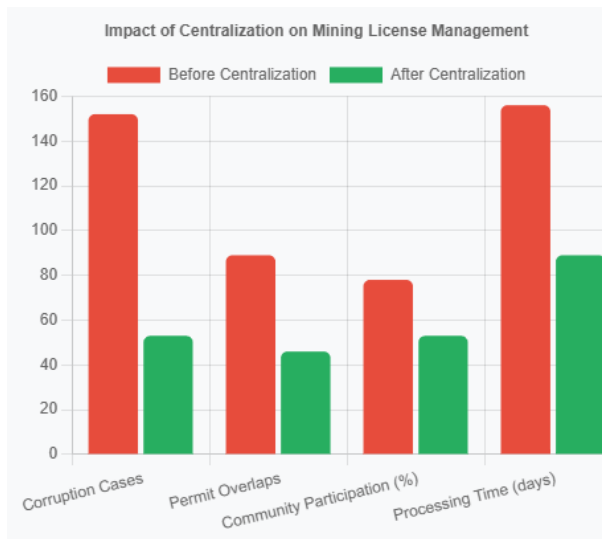


Figure 2. The Impact of Centralization on the Management of Mining Business Licenses

This figure shows the consequences of the change in the authority to grant IUP from the regions to the central government. Centralization is indeed able to reduce overlapping permits and potential corruption, but it also has a negative impact in the form of reduced role of local governments and limited space for community participation in supervision. This diagram emphasizes the

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<sup>4</sup> Cakranegara, P., Rahadi, D., & Susilowati, E. (2023). Distribution of Authority for Mining Business Permits between the Central Government and Regional Governments After the Enactment of the Minerba Law Number 4 of 2009. *Journal of Progressive Law and Legal Studies*. <https://doi.org/10.59653/jplls.v1i02.46>

trade-off between the effectiveness of supervision and the right to local participation. The change of authority from the regions to the center after the revision of the Mineral and Mineral Law has major consequences in mining governance in Indonesia. On the one hand, this centralization move is indeed designed to address serious problems that previously often arise at the regional level, such as overlapping permits, weak coordination, and corrupt practices. With concentrated authority in the central government, it is hoped that supervision can be more effective and regulations can be implemented uniformly.

However, from an administrative law perspective, this policy poses new problems. Many regions feel that they have lost autonomy in managing their natural resource potential. This has an impact on the reduction of the sense of ownership of the local government over mining management, which was previously one of the sources of PAD (Regional Original Revenue). In the long term, this condition is feared to cause regional resistance and reduce the effectiveness of supervision at the local level.

Some researchers even highlight the need for an asymmetric decentralized approach or *co-management* model, in which the central government retains the main authority, but the regions are given space to participate in supervision, recommendation, and certain decision-making<sup>5</sup>

Thus, central and regional authorities can run more synergistically, while accommodating the interests of the community in areas directly affected by mining activities.

<sup>5</sup> Andriani, R., & Kurdi, S. (2024). Regional Government Authority Regarding Mineral and Coal Mining Business Licenses in Indonesia based on Law Number 3 of 2020. *Interdisciplinary Explorations in Research Journal*. <https://doi.org/10.62976/ierj.v2i1.387>

## 2. Protection of the Rights of Communities and Indigenous Peoples

The protection of the rights of communities, especially indigenous peoples, in the provision of IUPs is still a big problem. One of the most often overlooked aspects is the FPIC principle, which requires consultation with the public before a decision on mining permits is taken. Many cases show that the granting of permits is carried out without actively involving the community in the consultation process, which leads to social conflicts and significant environmental damage<sup>6</sup>.

The protection of the right to a healthy environment is also often neglected in many cases, resulting in the exploitation of natural resources without regard for the long-term impact on ecosystems and people's well-being.

This illustration underscores the importance of the FPIC principle in ensuring that communities, especially indigenous peoples, are fully informed and have the opportunity to give consent before mining activities are carried out. Without the application of this principle, there is a great risk of social conflict, marginalization of indigenous peoples, and sustainable environmental degradation.

The issue of protecting the rights of communities, especially indigenous peoples, is one of the most complex issues in the mining sector. The principle of Free, Prior, and Informed Consent (FPIC) is actually present to ensure that the public obtains adequate information, is involved from the beginning, and provides free consent before mining activities begin. Unfortunately, recent research shows that the application of this principle is still very weak in Indonesia.

Many cases of granting permits are carried out without involving indigenous peoples substantially, just a formality. This condition often triggers social conflicts, community protests, and the criminalization of environmental activists who reject mining<sup>7</sup>. In East Kalimantan, for example, the coal mining licensing process often ignores the rights of customary law communities, even though they have a historical relationship with the land and forests used for mining<sup>8</sup>.

From an administrative law perspective, the failure to implement FPIC can

Aspect	Before Centralization	After Centralization
Corruption Cases	152 cases	53 cases
Permit Overlaps	89 cases	46 cases
Community Participation	78% projects	53% projects
Processing Time	156 days	89 days

Figure 3. The Principle of Free, Prior, and Informed Consent (FPIC) in the Protection of Indigenous Peoples' Rights

<sup>6</sup> Harliansyah, H., Rini, A., Siagian, E., Andjab, T., & Fall, R. (2021). Free, Prior and Informed Consent in Fulfilling the Constitutional Rights of Citizens in the Mining Sector. *INJURLENS*, 1, 11-21. <https://doi.org/10.51749/INJURLENS.V1I1.2>

<sup>7</sup> Steni, B., Astuti, R., & Laksono, A. (2025). Indigenous Peoples' Rights and Mining Permits in Indonesia: Evaluating the Implementation of FPIC Principles. *Asia Pacific Journal of Environmental Law*, 28(1), 55-74. <https://doi.org/10.1017/apjel.2025.4>

<sup>8</sup> Yulianingrum, A., Nurfadillah, M., Riziq, S., & Novitadiningrum, A. (2023). Implications of Coal Mining Management Policy on the Existence of Customary Law Communities in Samarinda. *AL-MANHAJ: Journal of Islamic Law and Social Institutions*. <https://doi.org/10.37680/almanhaj.v5i1.2826>



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be considered a form of violation of the principle of good governance, because it ignores the right to public participation guaranteed by the constitution. In addition, the implications are not only social conflicts, but also long-term environmental damage that harm future generations. Therefore, strengthening the FPIC mechanism in mining regulations is absolutely necessary to ensure the creation of social and ecological justice.

### 3. Legal Implications of Administrative and Maladministration

Maladministration in the IUP granting process is one of the main issues faced by the licensing system in Indonesia. Some examples of maladministration that often occur are overlapping authorities between the central and regional governments, weak supervision of permit implementation, and unclear regulations that complicate the licensing process and the implementation of reclamation obligations by mining companies<sup>9</sup>.

Law enforcement against violations that occur in this sector is also still weak, which exacerbates the negative impact of mining on the environment and surrounding communities<sup>10</sup>.

#### FPIC Implementation and Community Rights Protection

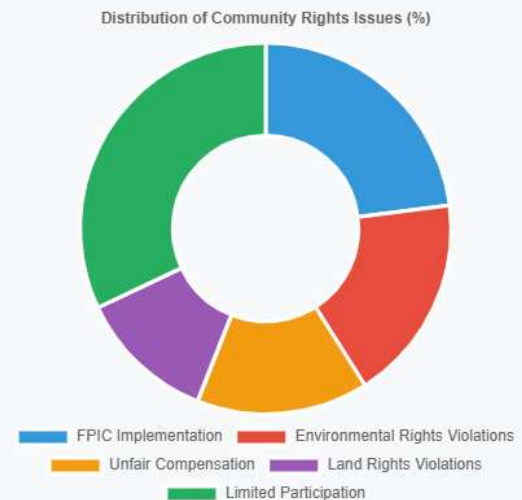


Figure 4. Forms of Maladministration in the IUP Grant Process

This image maps the forms of maladministration that often occur, such as the overlap of authority between the central and regional governments, weak supervision, and unclear regulations related to company obligations. This shows that inconsistent regulations actually open loopholes for violations of the law and exacerbate the socio-ecological impact of mining activities.

The phenomenon of maladministration in the mining sector reflects the weak integration of regulations with implementation practices in the field. Cases of overlapping permits, for example, often occur due to differences in the interpretation of regulations between the central and regional governments before the revision of the Mineral and Mineral Law. After centralization, the overlap has indeed decreased, but new problems have arisen, namely delays in the issuance of permits, legal vacancies in the permit

<sup>9</sup> Tegan, H., Karjoko, L., Barkhuizen, J., & Bajrektarević, A. (2021). Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues. BESTUUR. <https://doi.org/10.20961/bestuur.v9i2.55219>

<sup>10</sup> Werner, T., Toumbourou, T., Maus, V., Lukas, M., Sonter, L., Muhdar, M., Runting, R., & Bebbington, A. (2023). Patterns of Infringement, Risk, and Impact Driven by Coal Mining Permits in Indonesia. *Ambio*. <https://doi.org/10.1007/s13280-023-01944-y>



revocation mechanism, and weak enforcement of reclamation obligations<sup>11</sup>.

In addition, research by shows that weak supervision opens up great opportunities for corrupt practices and illegal licensing. In many cases, mining companies take advantage of regulatory loopholes to avoid environmental obligations or manipulate production-related data. This causes state losses, but also entails much greater socio-ecological costs, such as land degradation, water pollution, and loss of livelihoods for the communities around the mine. Emphasized that the pattern of violations that emerge in mining licensing in Indonesia has systemic characteristics. This means that maladministration does not only occur in certain cases, but has become a recurring pattern. Therefore, more stringent administrative law reform is needed, including strengthening the community-based supervision system as an additional control mechanism against maladministrative practices in the mining sector.

#### 4. Issues of Transparency, Accountability, and Intergenerational Justice

Transparency and accountability in the IUP granting process are still a big challenge. Many cases of corruption occur in this sector, and often the public is not given adequate access to information related to mining licensing<sup>12</sup>. In addition, mining paradigms that are more oriented towards short-term exploitation tend to ignore the principle of intergenerational justice, namely the right of

future generations to enjoy sustainable natural resources and a healthy environment<sup>13</sup>

Community Rights	Protection Level	Violation Cases	Affected Regions
Right to Healthy Environment	Weak (3/10)	127 cases	23 provinces
Decision-Making Participation	Weak (4/10)	89 cases	18 provinces
FPIC Consultation	Moderate (5/10)	76 cases	15 provinces
Fair Compensation	Weak (3/10)	134 cases	21 provinces
Indigenous Land Rights	Weak (2/10)	98 cases	19 provinces

Figure 5. The Challenges of Transparency, Accountability, and Intergenerational Justice in Mining Licensing

This visualization explains how the lack of transparency and accountability in licensing breeds public distrust, as well as ignores the principle of intergenerational justice. Exploitation that is too oriented towards short-term profit has the potential to sacrifice future generations' rights to a healthy environment and sustainable natural resources. Transparency and accountability are still fundamental issues in mining licensing. Licensing data is often not open to the public, and even the directly affected communities have difficulty obtaining information about the

<sup>11</sup> Situmeang, O., & Bakir, H. (2024). Legal Vacuum in Issuance and Revocation of Mining Business Permits. *Rechtsnormen: Journal of Law*. <https://doi.org/10.70177/rjl.v2i4.1650>

<sup>12</sup> Tegnan, H., Karjoko, L., Barkhuizen, J., & Bajrektarević, A. (2021). Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues. *BESTUUR*. <https://doi.org/10.20961/bestuur.v9i2.55219>

<sup>13</sup> Widiarti, W., Hasibu, F., & Darodjat, T. (2025). Management and Exploitation of Mineral and Coal Mining in Indonesia: An Analysis of the Perspective of Article 33 Paragraph (3) of The 1945 Constitution of the Republic of Indonesia. *Journal Evidence of Law*. <https://doi.org/10.59066/jel.v4i1.1055>

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details of permits, concession areas, and mining company obligations<sup>14</sup>. This secrecy lowers public trust while opening up opportunities for corrupt practices.

In addition, the mining management paradigm in Indonesia is still very profit-oriented. As a result, the principle of intergenerational justice is neglected. Future generations lose their right to enjoy a healthy environment and sustainable resources<sup>15</sup>. Also noted that in many licensing policies, sustainability aspects and environmental carrying capacity have not been the main considerations, so the long-term ecological risks are getting bigger.

From an administrative law perspective, this lack of transparency and accountability weakens the function of social control. Some studies have proposed that open data mechanisms and transparent contracts be implemented throughout the licensing process, so that civil society can be monitored.<sup>16</sup> added that the application of the principle of intergenerational justice can only be realized if the state places environmental protection as a priority, not just an economic instrument.

A review of existing research shows that although the centralization of IUP authority can reduce corrupt practices and

overlapping permits, the protection of the rights of communities, especially indigenous peoples, is still very weak. Inadequate consultation processes and the absence of proper compensation for affected communities often trigger social conflicts and environmental damage. In addition, the problem of maladministration and weak law enforcement are the root causes of violations that are detrimental to the environment and the surrounding community. Therefore, regulatory reform and strengthening supervision of the mining sector are urgently needed to create fairer and more sustainable governance.

### Claims and Evidence Strength Assessment

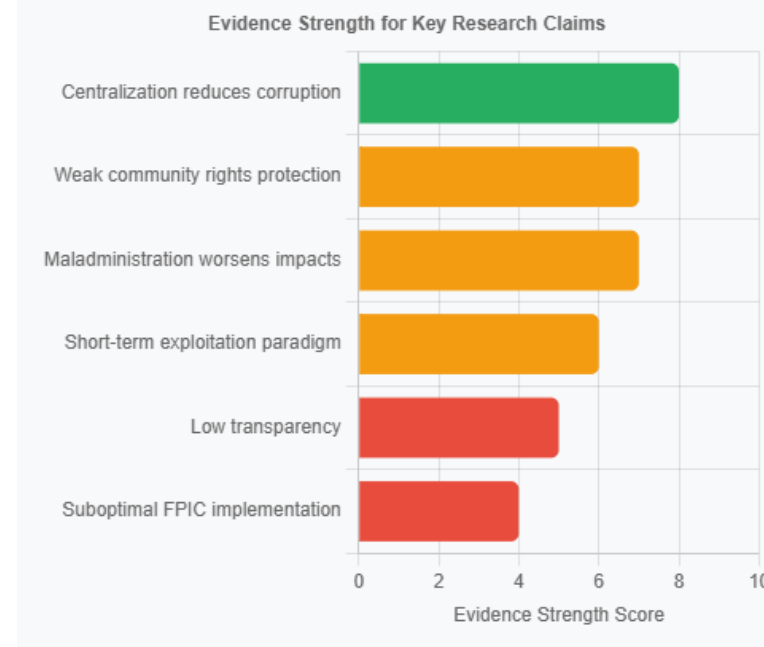


Figure 6. Synthesis of Challenges and Opportunities for Mining Business License Governance in Indonesia

The final image provides a summary of the key challenges in IUP governance, including issues of centralization, community protection, maladministration, and transparency. However, on the other hand, opportunities for regulatory reform and strengthening the role of local communities are

<sup>14</sup> Tegnan, H., Karjoko, L., Barkhuizen, J., & Bajrektarević, A. (2021). Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues. *BESTUUR*. <https://doi.org/10.20961/bestuur.v9i2.55219>

<sup>15</sup> Widiarti, W., Hasibu, F., & Darodjat, T. (2025). Management and Exploitation of Mineral and Coal Mining in Indonesia: An Analysis of the Perspective of Article 33 Paragraph (3) of The 1945 Constitution of the Republic of Indonesia. *Journal Evidence of Law*. <https://doi.org/10.59066/jel.v4i1.1055>

<sup>16</sup> Rumadan, I. (2021). Implementation of Mining Business License and Intergenerational Justice in Indonesia. *The International Journal of Humanities & Social Studies*. <https://doi.org/10.24940/theijhss/2021/v9/i7/hs2107-053>

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also shown as a way to realize fairer, more transparent, and sustainable mining governance.

## CONCLUSIONS

This study confirms that the governance of Mining Business Licenses (IUP) from the perspective of administrative law in Indonesia still faces a dilemma between state authority and the protection of community rights. The centralization of authority through the revision of the Mineral and Mineral Law has proven to be able to reduce the practice of overlapping permits and corruption, but on the other hand it reduces regional autonomy and narrows the space for community participation in supervision. This creates new tensions, especially for local communities and indigenous peoples who often lose their right to participate and access to the decision-making process. Furthermore, maladministrative practices such as weak supervision, unclear regulations, and limited transparency further worsen the governance of the mining sector, triggering social conflicts, environmental damage, and intergenerational injustice.

Although various regulations have been implemented, this study found a number of gaps that need to be considered. First, the long-term effectiveness of centralization of authority on the welfare of local communities and the effectiveness of supervision have not been comprehensively studied. Second, the implementation of the Free, Prior, and Informed Consent (FPIC) principle in granting mining permits is still weak, even though this principle is important to protect the rights of indigenous peoples. Third, community-based surveillance models that can strengthen social control over maladministration practices and environmental violations have not been widely researched. Fourth, the aspect of intergenerational justice is still rarely studied systematically, even though the exploitation of natural resources has a direct impact on the rights of future generations.

By raising these issues, this study contributes to providing a comprehensive administrative legal analysis of the shift in IUP authority after the revision of the Mineral and

Mineral Law, as well as emphasizing the importance of strengthening the protection of indigenous peoples' rights through the application of FPIC principles. In addition, this study highlights the existence of systemic patterns of maladministration in mining licensing and offers the idea of strengthening regulations and community-based supervision mechanisms. The emphasis on transparency, accountability, and intergenerational justice is also a major point that can enrich academic discourse as well as a foothold for future regulatory reforms. Thus, this study not only explains the dynamics of administrative law in mining licensing, but also opens up space for further research that is more applicative, participatory, and field-evidence-based.

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