

LEGAL PROTECTION FOR INDONESIAN CITIZENS IN LAND OWNERSHIP DISPUTES INCLUDED IN COAL MINING BUSINESS PERMIT CONCESSIONS

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Abstract

This study examines the form and effectiveness of legal protection for Indonesian citizens in guaranteeing land ownership within coal mining concession areas. The primary focus is on the tension between national economic interests in the mining sector and community land rights guaranteed by the constitution. This study uses a normative juridical method with a regulatory approach, legal theory, and empirical case studies in several mining areas such as Kutai Kartanegara and Paser. The results indicate that land conflicts in IUP areas are generally revoked due to overlapping ownership claims, weak land administration verification (SKT/SKPT), and minimal government oversight. The state, based on the theory of the Right to Control (HMN), has a constitutional mandate to regulate, manage, and oversee the utilization of natural resources for the welfare of the people. However, its implementation is still biased towards corporate interests, so that community rights are often neglected. This study recommends the implementation of responsive laws, strengthening the social function of land rights, and transparent and pro-community mechanisms for peace and conservation resolution. True legal protection can only be achieved if the state acts not merely as a regulator but also as an active protector of citizens' rights against the impacts of the expansion of the coal mining industry.

Keywords: Legal Protection, Land Disputes, Coal Mining Business Permits

INTRODUCTION

Indonesia is a country rich in natural resources, particularly minerals and coal, which are widely distributed throughout the archipelago. This wealth has fueled significant investment in the mining sector, particularly coal, which contributes significantly to national economic growth. However, massive mining activities have multidimensional consequences, especially in terms of land ownership and control, which often conflict with the rights of local citizens (Harjanto et al., 2019).

In practice, areas designated as mining business permit areas (WIUP) are often located on land already controlled by communities, whether based on customary rights, cultivation rights, or formal ownership rights documented by documents such as Land Certificates (SKT) or Land Control Certificates (SKPT). This situation creates tensions between IUP holders and the residents who control or own the land. The problem becomes more complex when not all land has been officially registered with the National Land Agency (BPN), the inheritance process has not been completed, there are land mafia practices and officials are not careful in carrying out land administration (Kejaksaaan Agung RI, 2023).

This phenomenon causes high potential for land conservation in coal mining concession areas. Disputes can take the form of overlapping land ownership claims, discrepancies in legal documents, and demands for compensation against mining companies. This research is considered urgent and relevant, considering that the escalation of land threats around mining concessions has caused various negative impacts, ranging from blocking mining activities, investment threats, to social, economic and environmental losses for affected communities (Mustofa, 2025).

Legal protection for Indonesian citizens in protecting land that occurs due to the presence of coal mining business permits which have high urgency. This is because mining activities often conflict with the principle of citizens' land rights, both private and indigenous. Law No. 4 of 2009 concerning Mineral and Coal Mining has emphasized that IUP holders do not automatically have land rights, so there must be a land acquisition process based on agreement and adequate infrastructure (Muskibah, 2021).

According to Philipus M. Hadjon's theory of legal protection, legal protection for the public must encompass two forms: preventive and repressive. Preventive protection is a rescue mechanism, while repressive protection relates to law enforcement efforts when violations occur, including litigation in court and other alternative resolutions. In the context of coal mining, legal protection also includes the community's right to compensation, the right to environmental compensation, and access to legal services and complaints (Alfiansyah, 2024).

Conflicts between land rights holders and IUP holders stem from differences in legal basis, economic interests, and policy inconsistencies in the land, forestry, and mining sectors. SKT and SKPT are often used as a basis for claims of ownership, even though their status is not proof of land ownership rights, but rather a form of control over cultivated land. Land speculator practices both individuals and groups take advantage of weak administrative oversight, resulting in overlapping land ownership being common in mining concession areas.

Investments in the mining sector contribute to the escalation of land conservation. Land ownership transfers from communities to companies are often based solely on SKT/SKPT (Letter of Release of Rights), without comprehensive identification and verification procedures. This results in new claims and demands for compensation from other parties who also claim to have rights to the land (Soekanto, 2009).

Handling of land settlement in coal mining areas has been regulated in various laws, including Law Number 4 of 2009 concerning Mineral and Coal Mining, Law Number 41 of 1999 concerning Forestry, as well as implementing regulations such as Forestry Ministerial Regulation Number P.44/MENHUT-II/2012 and P.62/MENHUT-II/2013. Every land acquisition process must prioritize the principles of deliberation, justice, and the provision of incentives, whether in the form of rent, sale and purchase, or exchange. Dispute resolution can be done through mediation, negotiation, or litigation if there is a deadlock between the disputing parties.

The issue of land acquisition and determining compensation is often a major source of peace. Residents who feel they haven't received compensation or who believe the significant increase is unjustified tend to pursue legal action. Litigation in court is a last resort after negotiations and mediation fail to yield a solution. However, the dynamics of land settlements are often marred by land mafia practices and the suboptimal role of land officials.

Land disputes in coal mining concession areas directly impact local communities. These impacts include loss of land rights, loss of livelihoods, social conflict, and environmental

contamination and damage caused by mining activities. In many cases, communities have blocked company operations to protest injustices in compensation or land acquisition processes.

Moreover, keeping land undeveloped will create bad investments and potential long-term economic losses for the country. Therefore, the legal protection system for citizens must be strengthened so that society can obtain legal certainty, justice, and access to their rights which are protected by the constitution and laws and regulations (Muskibah, 2021).

This research offers a systematic analysis of the legal protections available to Indonesian citizens for land under coal mining concessions. The findings are expected to contribute both theoretically and practically: strengthening the doctrine of land and mining law, and providing concrete solutions for on-the-ground management. Furthermore, this research serves as a guideline for communities, law enforcement officials, and the government in developing a just and sustainable land administration system and resolving land conflicts.

The urgency of the research on "Legal Protection for Indonesian Citizens in Land Ownership Disputes Included in Coal Mining Business Permit Concessions" is even stronger if it is applied based on historical, philosophical, and sociological foundations. The following is an explanation with academic references and related literature notes.

Land conflicts in coal mining concession areas have long historical roots that are closely linked to the paradigm of state control over natural resources since the colonial era. During the Dutch East Indies era, mining regulations were centralized through the 1899 *Mijnwet* and *Mijnconcessiewet*, which granted extensive mining concession rights to foreign and private companies, often ignoring the rights of local economic communities and customary lands. This pattern of state control over minerals and coal, inherited from the colonial era, is still evident today marked by state dominance over the issuance of concession permits, without recognizing the capacity of local and indigenous communities to exercise their land rights. While Article 33 of the 1945 Constitution and the 1960 UUPA affirm the principle of state control for the prosperity of the people, in practice it is often dominated by economic and investment interests. The frequent disputes from the New Order to the reform era illustrate the unresolved fundamental issue of recognizing community rights amidst mining investment interests (Chandra, 2016).

From a philosophical perspective, the main problem of land conflicts in mining areas is the relationship between land rights as part of human rights and the ideals of social justice as mandated by Pancasila and Article 33 of the 1945 Constitution. Natural resources, including land and minerals, are emphasized by the constitution to be managed for the greatest prosperity of the people, which means paying attention to justice, balance, participation, and recognition of the rights of local communities as subjects, not objects of development. This framework also includes the principles of respect, protection, and inclusion of human rights in mining policies. Recognition of the rights of traditional communities and meaningful participation in all decision-making is the philosophical foundation for fair and inclusive mining governance. Without a solid philosophical foundation, the direction of mining policy is prone to exploitative bias, sacrificing the basic rights of local communities (Salinding, 2019).

Sociologically, land for local and indigenous communities is not only an economic asset, but a source of social and cultural identity, as well as the basis for survival and the environment. Land ownership conflicts in coal mining concession areas often arise from differing paradigms between communities (who view land as a cultural heritage, living space, and the basis of a subsistence economy) and companies (who view land solely as an economic asset). Economic inequality, environmental damage, lack of public participation, the lack of recognition of rights, and an inefficient land allocation process further exacerbate social tensions. As a result, communities feel marginalized, leading to social protests, blockades, and even criminalization of those who fight for their rights. This sociological dynamic demands that the state not only act as an investment facilitator, but also assume full responsibility for ensuring justice, protection, and empowerment of communities in mining-affected areas (Dimas, 2014).

RESEARCH METHOD

Type of legal research used Normative Juridical Legal Research is used to examine the principles, norms, principles, and rules of positive law that regulate land protection and the protection of community rights in coal mining concession areas, including analyzing the Mineral and Coal Mining Law, UUPA, and their derivative regulations. This approach will also integrate legal norms with developing theories and doctrines. Normative legal methods support in-depth analysis of the validity, content, and strength of legal protection related to mining land protection, so that the research results

can provide theoretical contributions and concrete recommendations for improving community rights protection policies in the future.

RESULTS AND DISCUSSION

The relevant theoretical framework for the research "Legal Protection for Indonesian Citizens in Land Ownership Disputes Included in Coal Mining Business Permit Concessions" can include at least the following five theories as a reference for analysis:

1. Theory of the State's Right to Control Natural Resources

Originating from the interpretation of Article 33 paragraph (3) of the 1945 Constitution, this theory emphasizes the state as the holder of the mandate to control natural resources for the prosperity of the people, not as the absolute owner. The state is obliged to create policies, regulations, management and supervision, ensuring that the use of land and mining is fair and does not sacrifice the rights of the community.

2. Theory of the Social Function of Land Rights

This theory asserts that individual rights to land must be balanced by social obligations, as regulated in Article 6 of the 1960 UUPA. Land ownership rights must not be detrimental to the public interest including aspects of redistribution, land acquisition for the public interest, and protection for vulnerable groups (Rejekiingsih, 2016).

3. Social Justice Theory (Distributive Justice Theory)

Referring to the idea of distributive justice from John Rawls and the idea of justice in land law, this theory is relevant to analyzing compensation, providing appropriate compensation, and distributing the benefits of mining results proportionally. This principle demands a balance between the individual or collective rights of citizens and national development priorities.

4. Responsive Legal Theory

Chosen by Philippe Nonet and Philip Selznick, the responsive legal theory of legal pressure that is adaptive and sensitive to the dynamics and needs of society (responsive law), especially in facing structural changes such as agrarian conflicts in mining areas. The law must be able to provide real protection, not just be a tool of power.

5. Human Needs Theory

This theory explains the roots of land conflict as the failure to provide basic human needs shelter, livelihood, and security of social identity. This theory is useful for solving land conflicts in sociological dimensions, both at the individual and communal levels (Dimas et al., 2014). These five theories can serve as the main reference in the discussion and analysis of research results, helping to position the state and society on the issue of land conservation in coal mining concession areas holistically from the legal, justice, and social reality aspects.

The State's Right to Control (HMN) theory is highly relevant for analysis in the context of land ownership trading within coal mining concessions because it positions the state as the ultimate authority over all agrarian resources, to be utilized to the greatest extent for the prosperity of the people. The benchmarks for the relevance of the state's right to control theory can be explained as follows:

The most important benchmark is constitutional recognition in Article 33 paragraph (3) of the 1945 Constitution, which states "The earth, air and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." This principle is affirmed in various Constitutional Court decisions and forms the basis of all land and mining regulations in Indonesia.

The state has a benchmark of relevance when carrying out its functions:

- a. regulation: The state draws up regulations regarding the granting of land rights, mining permits, and protection of local community rights.
- b. Managing (beheer): The state has the authority to manage, determine the allocation and distribute land concessions in accordance with national policies.
- c. Supervision (toezicht): The state is obliged to supervise to ensure that the implementation of mining and land use is carried out in accordance with the principles of justice, transparency, and does not harm citizens.
- d. The relevance of HMN is measured by the presence of legal mechanisms that guarantee:

- e. Recognition and protection of community rights to land (including customary land, cultivated land, formal ownership rights).
- f. Fair compensation, redress and redistribution of land in the event of land acquisition for public interest projects or mining concessions.
- g. Accommodative settlement mechanisms, both through litigation and non-litigation.

Another measure of the relevance of HMN theory is the balance between state authority and community participation and interests, both in policymaking and decision-making processes regarding land and mining. The state must not simply act as a "corporate agent" or negate citizens' basic rights.

HMN becomes relevant if its implementation is in line with the principle of social function namely, land rights should not be used exclusively or only favor mining companies, but should still prioritize the interests of the wider community and environmental sustainability (Rejekiningsih, 2016).

This research reveals that land conflicts in coal concession areas are a persistent phenomenon involving communities holding land rights and companies holding Mining Business Permits (IUP). Field studies and cases in Kutai Kartanegara, Paser, and other mining areas reveal key patterns: overlapping ownership claims, inadequate compensation, and weak law enforcement. Conflicts typically begin with the transfer of land rights that is non-transparent or based solely on administrative documents (SKT/SKPT) without thorough verification. The negative impacts experienced by the community ranging from the loss of living space, damage to the ecosystem, to the criminalization of citizens who demand their rights.

In terms of legal protection, the Mineral and Coal Mining Law stipulates that companies are required to obtain land permits and provide compensation before operations begin. However, in many cases, this process is less than ideal some land is cultivated without compensation, the government and authorities are often slow to respond to complaints, and communities are even forced to undergo lengthy and expensive litigation. Research also finds that the implementation of state control rights is often biased toward economic interests, resulting in suboptimal protection of community rights, despite explicit normative provisions.

Discussion

The relevance of the theory of the State's Right to Control (HMN) can be seen from the role of the state in granting permits, supervision, and resolving disputes. The state guarantees that mining land management truly prioritizes the welfare, well-being, and protection of community rights not simply pursuing investment interests. However, research findings show that HMN is often merely a norm, lacking intensive implementation. Empirical evidence shows that many compensation cases remain unresolved for years, authorities are slow to respond, and are vulnerable to criminalization.

The theory of social justice and the social function of land rights reinforce the importance of legal protection. From several court decisions (for example, PTUN decision No. 250/G/2024/PTUN.JKT regarding PT GPU and PT SKB), the judge emphasized the importance of protecting land rights even though there is a mining concession permit, even to the point of ordering mining operations to protect community rights. However, field observations show that the implementation of execution is often ignored or slowed down by business actors and related agencies, complicating the continuity of legal protection for the community.

The urgency of responsive legal studies is clear: legal instruments must be adaptive and support vulnerable groups, not only in documents but also in policies, oversight, and accommodating and fair legal settlements. Alternative mechanisms mediation, facilitation, or class action lawsuits often fail to meet their objectives due to weak legal capacity, limited public awareness of rights, and resistance from mining companies to compromise.

1. Strengthening Verification and Documentation of Land Rights

The government needs to improve the quality and accuracy of land ownership verification in mining areas, including the recognition of customary land rights, cultivation rights, and formal rights, through joint audits between the National Land Agency (BPN), local governments, and independent third parties. Digitizing land documents and maps is crucial to prevent overlapping claims and expedite future administrative validation.

2. Optimization of Compensation and Redress Mechanisms

Expected regulations and compensation to the community must be clarified and implemented in a fair, transparent and participatory manner. Determining the amount of compensation should involve an independent assessment and be well communicated to the affected community. The

government is obliged to act as an active mediator to defend the rights of the community in the event of a compensation settlement (Alfiansyah, 2023).

3. Strengthening the Role of the State as a Supervisor and Law Enforcer

The state's oversight function over mining companies needs to be improved, particularly regarding transparency of land permits and implementation of compensation. Law enforcement officials must uphold justice and swiftly take action against all violations, including the criminalization of communities fighting for land rights, land grabbing, or document manipulation.

4. Improving Access to Dispute Resolution Mechanisms

The public must have easy and fair access to problem-solving mechanisms, whether through mediation, facilitation, or litigation in court. The government needs to provide legal aid programs, legal assistance, and socialization of rights to the community so that they are able to actively participate and understand all stages of dispute resolution.

5. Application of Responsive Law and the Social Function of Land

The state and mining companies are obliged to apply responsive legal principles that adapt to local dynamics and community needs. The principle of the social function of land must be prioritized so that legal protection is truly realized in concession areas, not merely a legal norm on paper.

Recognition of customary law communities and their traditional rights has a strong constitutional basis. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that the state recognizes and respects customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. This provision confirms that the existence of customary law communities receives conditional recognition from the state, but still provides constitutional legitimacy for the existence of customary rights and dispute resolution mechanisms based on customary law (AMAN, 2023).

More specifically, Article 3 of the Basic Agrarian Law (UUPA) recognizes customary rights and similar rights of indigenous communities, as long as they exist in reality. This article establishes the principle that customary rights of indigenous communities to land with the potential to contain minerals and coal must be respected in the IUP issuance process. This regulation demonstrates that in the relationship between state law and customary law, there is room to construct customary law in accordance with the interests of community protection.

Customary law plays a fundamental role in providing legal protection and serving as an alternative mechanism for resolving land ownership disputes within coal mining concessions. Through customary deliberations, mediation by traditional leaders, and recognition of customary rights, communities can obtain more contextual justice than through formal litigation. However, implementation challenges and weak formal regulations demand reform of mining law that is more inclusive and just for indigenous communities.

CONCLUSION

This study confirms that land conflicts in coal mining concession areas are resolved through the integration of the state's function as the holder of the State Control Rights (HMN) with the protection of community rights to land. Although normatively Article 33 paragraph (3) of the 1945 Constitution places the state as the manager of natural resources for the prosperity of the people, its implementation often favors the economic interests of companies over social justice for affected residents. The state has a constitutional responsibility to regulate, manage, and supervise the use of mining land to ensure fairness and sustainability. However, the results of the study indicate weak implementation of this function, resulting in: the rise of overlapping claims to land; disproportionate and less transparent compensation; criminalization of citizens who defend their land rights; and neglect of the implementation of court decisions that favor the people.

Based on the theory of the State's Right to Control, the theory of the social function of land rights, and the theory of social justice, the state should not only be an administrative regulator but also an active protector of citizens' rights through affirmative action policies, firm law enforcement, and fair reform mechanisms. Furthermore, the theory of responsive law and the theory of human needs emphasize the importance of holistic conflict resolution, taking into account the social, psychological, and economic dimensions of affected communities. Therefore, ideal legal protection in guaranteeing land ownership in coal IUP areas must be realized through: Accurate verification of land

ownership, including recognition of customary land and cultivation rights; Fair and transparent compensation and redress, with the involvement of communities and independent institutions; Active state supervision and law enforcement without discrimination, especially against practices of encroachment and criminalization of citizens; Strengthening public access to legal aid and defense mechanisms, both through litigation and non-litigation; Implementation of the principles of social function of land and responsive law, so that mining policies do not sacrifice the basic rights of citizens and environmental sustainability.

Ultimately, legal protection for the community in preserving mining areas is not sufficient if it is realized through written norms, but must be realized through real state actions in realizing distributive justice, environmental longing, and people's equality over natural resources as mandated by the 1945 Constitution.

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