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### RESEARCH ARTICLE

#### LOCAL GOVERNMENT POLICIES ON THE IMPACT OF MINERBA MINING BASED ON PRINCIPLES SUSTAINABLE DEVELOPMENT

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#### Abstract

There Mining authority lies with the central government while activities are in the district/city, this causes environmental damage. The aims of this study are (1) to describe the policies of the Regional Government in mineral and coal mining activities based on the principles of sustainable development? (2) Describe the Local Government's Efforts in Upholding Environmental Protection in Mineral and Coal Mining Activities for Sustainable Development. The method used is a normative approach or statutory approach. The results of this study are (1) The form of policies that regulate mining is not in accordance with the goals of the Indonesian state, not in sync with the principles of sustainable development. Existing authorities are unclear, and there is still overlapping authority between the central government and regional governments. (2) Regional government authorities in the mining sector are still overlapping and out of sync. Therefore, local governments cannot enforce the law, whether it is administrative, criminal or civil law enforcement.

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#### Introduction:-

In the effectiveness of Law Number 3 of 2020 later, attention must be paid to issues of regional autonomy and decentralization, especially with regard to coordination and central-regional relations given the withdrawal of some of the authority and role of regional governments in the management of the mineral and coal mining sector (Gusnar Ismail. 2020) .Paying attention to the rights of communities affected by mining activities. As a result, the regional government's authority is withdrawn, which creates overlapping authorities, making the regional government unable to enforce the law. This must be considered in relation to the role and involvement of the regions in the process of supervising mining activities, especially in the implementation of good mining practices standards (Nabilla Desyalika Putri dan Dian Agung Wicaksono.2018)

Provisions of Article 35 paragraph (4) The Central Government can delegate the authority to issue Business Permits to provincial Regional Governments in accordance with statutory provisions. Based on the plan for the Draft Government Regulation circulating that the types of permits that will be delegated to the Provincial Government include: Non-Metal Mineral IUP, Rock IUP (all types of loose material rock, igneous rock such as andesite, river stone, sea sand, pumice etc. , Rock Mining Permits (SIPB) with rock types limited only to loose materials such as piled up soil, clay, river pebbles, piled sand etc., People's Mining Permits (IPR), Transportation and Sales Permits (specifically for non-metallic minerals and rocks), Mining Service Business License (specifically for one province), IUP for sales.

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In the new Minerba Law of 2020 the authority for attribution shifts to the authority of the delegation (Derita Prapti Rahayu, dan Faisal. 2021) Article 35 paragraph (4) in the 2020 Minerba Law will certainly lead to interpretations as if the regional government has authority, even though it does not have independent authority as long as it is interpreted as not giving or delegating authority from the central government to the provincial government. What's more, Article 35 requires implementing regulations such as Government Regulations in order to guarantee legal certainty to the provincial government in terms of how it obtains its authority, and to what extent this authority can be exercised. The guarantee of legal certainty in the implementation of mining business activities is the goal of mining management itself.

The impact that we can feel from the passing of the policy regarding Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining can be seen from an ecological, economic and social perspective, due to the weak authority of the Regional Government

In Lampung Province, there is a land area of 34,635.74 hectares as a mining location that has been granted permits to 171 mining companies. Mines in Lampung Province that are potentially problematic are: Sea Sand Mining PT Lautan Indonesia Persada in Rajabasa District, South Lampung Regency; PT Makmur Anugerah Mandiri Sejahtera in Dente Teladas, Tulangbawang Regency; Indonesian Fishermen's Cooperative Center in Way Teladas, Tulangbawang Regency; PT Sejati 555 Sampurna Nuswantara in Margasari, Sukorahayu, East Lampung Regency. East Lampung Regency; Illegal sand mining in Labuhanmaringgai and Pasir Sakti Districts, East Lampung Regency

If we look at this phenomenon, the policy regarding mining does not materialize the objectives of the law itself, it even becomes an obstacle to the role of public policy itself to achieve the goals of the state. Thomas R Dye defines public policy as "is whatever the government chooses to do or not to do" (whatever the government chooses to do or not to do) (Nur Chumairo , Aan Warul Ulum. 2021) . This definition emphasizes that public policy is about the embodiment of "actions" and is not merely a statement of the will of the government or public officials (Uchaimid Biridlo'i Robby, dan Wiwin Tarwini. 2019). In addition, the government's choice not to do something is also a public policy because it has the same effect as the government's choice to do something.

The government needs to formulate an appropriate policy on minerba mining in a sustainable manner to maintain the continuous improvement of the community's economic welfare, maintain the sustainability of the community's social life, maintain the quality of the environment and inclusive development and implement governance that is able to maintain an increase in the quality of life from one generation to the next. next.

Regarding sustainable development, it is inseparable from public policies taken by the authorities in order to turn the wheels of development or the implementation of a program and goals of a country. That from the description above (Dida Rachma Wandayati dan Nur Rahmadayana Siregar .2020) Of course, in carrying out a policy, a constitutional basis is needed in carrying it out. The legal system adopted by Indonesia is certainly a feature in the implementation process by making arrangements based on legal norms. Based on the description of the background above, the formulation of the problem in this research is as follows: (1) What are the policies of the Regional Government in Minerba mining activities based on the principles of sustainable development? (2) How are the efforts of the local government in enforcing environmental protection in mineral and coal mining activities towards sustainable development?

### **Research Methods:-**

The research to be conducted is normative legal research, namely research conducted by analyzing problems using legal principles and legal principles. Researchers want to see the extent to which legal provisions are the basis and foundation for the issues being discussed by conducting a literature study (Library Research). The nature of this research is analytical descriptive, namely a study that aims to describe (describe) the facts and conditions or symptoms that are the object of research, after which a critical analysis is carried out, in the sense of providing explanations for these facts or symptoms, both within the framework of systematization or synchronization. , based on the juridical aspect will thus answer the problems that are the object of research.

In this study, several approaches were used, with this approach the researcher will get information from various aspects regarding the issue of the problem that is being sought for an answer. This research itself will use a normative approach or a statute approach. This approach is carried out by examining all laws and regulations related to the problems that are the object of this research. The normative approach is intended to solve problems which are

the object of the problem in research, namely to review the legal basis and principles regarding local government policies in the mining sector with the principle of sustainable development

**Discussion:-**

**Local Government policies in mineral and coal mining activities based on the principles of sustainable development**

Many legal instruments have been issued to support mineral and coal mining activities, both during the colonial period and after independence (Ahmad Redi, Luthfi Marfugah. 2021 ) One of them is stated in Law Number 4 of 2009 concerning Mineral and Coal Mining, part of which has been amended by Law Number 3 of 2020. At a normative level, Law Number 3 of 2020 concerning Amendments to Law Number 4 2009 concerning Mineral and Coal Mining provides legal certainty for the Extension/conversion of Contracts of Work/Work Agreements for Coal Mining Concession into Special Mining Business Permits (IUPK) for Production Operations. The authority to manage Minerals and Coal which was previously delegated by the Central Government to Regional Governments, but in the new Minerba Law this authority fully becomes the rights and powers of the Central Government. In accordance with the provisions of Article 173 C of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, the authority to manage mineral and coal mining by the Provincial Government has been carried out based on Law Number 4 of 2009 concerning Mining Minerals and Coal.

The ratification of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining is considered to be full of challenges. In addition to increasingly remote supervision because it was withdrawn to the Center and investment permits which were also easier to issue, which resulted in a lot of rejection that arose from people who felt disadvantaged and wanted to save environmental sustainability in their area which became a mining area, they were instead greeted with criminal snares. .

The decision taken by the government in terms of passing Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, was deemed not in accordance with public policy theory. Even though the government chooses to do something, these actions cannot be used to achieve certain goals that are useful for solving public problems or for the benefit of society. Policy implementation in principle is a way for a policy to achieve the goals of the law, nothing more and nothing less. However, the legal policy regarding mining, with its concrete form, namely Law Number 3 of 2020, will only become an obstacle to the role of public policy itself. This law reaps pros and cons due to overlapping authorities between the center and the center, the withdrawal of regional government authority, the absence of protection for people affected by mining, the ecological damage caused by mining.

Overlapping authorities occurred after the issuance of Law Number 3 of 2020 as an improvement to Law Number 4 of 2009 concerning Mineral and Coal Mining, regulates new content material added and deletion of several articles which are considered unable to answer the problems and actual conditions in implementation exploitation of Mineral and Coal Mining, but in the process of ratification many parties considered that the Minerba Law was not in favor of the environment and only benefited corporations.

This is contrary to the theory of sustainable development, because ideally sustainable development requires an approach towards achieving sustainability or continuity of various aspects of life which includes ecological, economic and socio-cultural sustainability.

In Lampung province, there were 17 mining problems recorded during 2019. The details are four sea sand mines, five river and land sand mines, two gold mines, four stone mines, and two coal mines. These mines have problems starting from the process, implementation, to post-mining. The mines are spread across the regencies of South Lampung, East Lampung, Pesawaran, Pringsewu, West Lampung and Bandarlampung City. There are several points of ex-mining pits that cause environmental damage if not repaired (<https://www.rmollampung.id/walhi-catat-ada-17-tambang-bermasalah-di-lampung> )

This problem is of course not in accordance with the concept of sustainable development in the aspect of ecological sustainability. In this concept it is explained that ecological sustainability is a prerequisite for the development and sustainability of life. Ecological sustainability will ensure the sustainability of the earth's ecosystem. To ensure ecological sustainability, the following matters must be pursued, among others (Janpatar Simamora dan Andrie Gusti Ari Sarjono. 2022)

1. Maintaining the integrity of the environmental order so that life support systems on earth are guaranteed and productivity, adaptability and restoration systems for land, water, air and all life are sustainable
2. Three aspects that must be considered to maintain the integrity of the environmental order, namely; carrying capacity, assimilative capacity and sustainable use of recovered resources
3. Maintaining biodiversity in the diversity of life that determines the sustainability of ecological processes. The process that makes a series of services to humans today and in the future.

Article 128A Text of Law No. 11 of 2020 concerning Job Creation, it is explained that business actors who can increase the added value of coal will receive preferential treatment in the form of imposing a royalty of 0% (<https://www.walhi.or.id/menyoal-4-masalah-uu-minerba-yang-merugikan-masyarakat-luas>)

Even though the royalties determined by the government for mining entrepreneurs are part of state revenue and entered as regional income through the Profit Sharing Fund mechanism. This shows that Law no. 3 of 2020 concerning Mineral and Coal Mining as well as several amendments to the Articles in the Job Creation Law, the Central Government together with a handful of conglomerates of mining entrepreneurs are very ambitious to finish off Indonesia's remaining natural resources. Instead of protecting the environment from catastrophic ecological damage, they are even more enthusiastic about exploiting it as much as possible without caring about the future of the people in the mining area. Apart from that, it raises pros and cons for the community and workers in the mineral and coal sector as well as causing losses from the Natural Resources (SDA) side. This is due to the benefits that arise for the government and the facilitation of a mining company in the process of extending it and providing convenience in terms of the separation of powers that occurs between the Central Government and Regional Governments.

Destroying natural resources and not protecting the environment is not in accordance with the 15th point of sustainable development theory, namely land ecosystems (Life On Land). Apart from influencing the climate, managing forests in a sustainable manner, rehabilitating damaged land, and stopping the extinction of biodiversity are also the main goals

Control of Minerals and Coal by the State as referred to in Article 4 paragraph (1) is carried out by the Central Government which is regulated in Article 4 paragraph (2) of Law Number 3 of 2020 is more related to Attributive Authority, in this case centralization. However, in Article 35 paragraph (4) of Law Number 3 of 2020, it explains that the Central Government can delegate the authority to grant Business Permits as referred to in paragraph (2) to Provincial Governments in accordance with the provisions of laws and regulations which include:

- 1) Granting of People's Mining Permits (IPR).
- 2) Issuance of Rock Mining Permit (SIPB).

This problem is of course not in accordance with the theory of regional autonomy. Conceptually, the presence of decentralization and regional autonomy policies is expected to improve the quality of the environment in the regions. Decentralization is the transfer of governmental authority by the government to autonomous regions to regulate and manage government affairs within the system of the Unitary State of the Republic of Indonesia. From this formulation it is clear that the authority of regional government is authority originating from the delegation of authority by the Government to autonomous regions. Thus the authority of the regions in carrying out various regional government affairs, is the authority of the delegation, including in the field of environmental management (Muhammad Akib. 2012)

Law Number 3 of 2020 must pay attention to issues of regional autonomy and decentralization, especially with regard to coordination and central-regional relations considering the withdrawal of several authorities and the role of regional governments in managing the minerba mining sector. R.D.H Kosoemahatmadja gave his opinion on autonomy, that by granting legal and governmental rights and powers to autonomous regions such as provinces and districts/cities, these regions with their own initiative can manage their regional households (Agus Triono. 2014)

So far the Regional Governments and the era of decentralization and autonomy have had the authority, where they should be able to properly maintain the mandate of this authority, but with the new Minerba Law, most of that authority was taken over by the center on the pretext of wanting to create a favorable investment climate. more conducive. In fact, the Central Government does not necessarily have sufficient capability and capacity to carry out the licensing process and supervision of mining areas throughout Indonesia.

Therefore, autonomy must be meaningful as a way to optimize all local potential, both natural, environmental and cultural. For autonomous regions in managing and managing the interests of the local community, it means to be self-supporting. This means that the region must have its own source of income, one of which is sourced from local revenue, namely regional taxes. The authority to impose levies is not just a source of income, but at the same time symbolizes the freedom to determine oneself in a regulated and take care of the household in the area concerned (Ade Arif Firmansyah dan Malicia Evendia. 2015)

Communities Can No Longer Protest to Local Government. all mining authority is regulated by the Central Government, no longer the local Regency or Municipal Government. So currently, people who want to protest related to mining activities in their area must report to the central government or at least the province. Even though so far most of the mining locations are in remote areas and even outside Java. This rule is very far from the logic of good governance, because people who live in mining areas cannot do much when their environment is damaged by the actions of mining companies.

If associated with the theory of legal protection, this is not correct. According to Satijipto Raharjo, the theory of legal protection is to provide protection for human rights that are harmed by other people and that protection is given to the community so that they can enjoy all the rights granted by law. The law can function to realize protection that is not only adaptive and flexible, but also predictive and anticipatory. Law is needed for those who are weak and not yet strong socially, economically and politically to obtain social justice (Nur Adi Kumaladewi. 2015)

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### **Local Government Efforts in Enforcing Environmental Protection in Minerba Mining Activities Against Sustainable Development**

Law enforcement due to environmental pollution and/or damage can occur and the Government and Regional Governments are held accountable, these cases are usually shown by the government's failure to carry out its obligations to supervise or enforce the law. Article 1 point 2 UUPPLH-2009 explains the meaning of protection and management as a systematic and integrated effort made to preserve environmental functions and prevent environmental pollution or damage which includes planning, utilization, control, maintenance, supervision and law enforcement (Feri Andriawan, Muhammad Akib, Agus Triono. 2021) .Enforcement of environmental law due to pollution can be pursued based on administrative accountability, criminal liability, and civil liability (Lifking Novian Kandow, Ronny A. Maramis, Emma V. T. Senewe.2021). As a result of this overlapping authority, local governments cannot enforce the law, be it administrative law, criminal law or civil law a. Administrative law instruments

#### **1. Administrative sanction**

Corridors are more at a preventive level, namely in the form of supervision and control of an activity or action. The concrete form of the supervision corridor in the context of mining administration law enforcement is through limitative signs regulated in the provisions of Articles 39, 78 and 79 concerning IUP or IUPK. The signs contained in the IUP or IUPK are obligations that must be carried out by the recipient of the IUP or IUPK, and if a violation is committed, the official issuing the license has the right to impose sanctions. That is, first and foremost in administrative law enforcement, it is the administrative official who issues the said permit.

The following describes the supervisory authority in the field of mineral and coal mining

No	Regulations	Supervision Authority
1	Law Number 3 of 2020 in conjunction with Law Number 4 of 2009 concerning Mining	Article 140 The Minister supervises the implementation of Mining Business activities carried out by holders of IUP, IUPK, IUPK as a Continuation of Contract/Agreement Operations, IPR, SIPB, Transportation and Sales Permits, or IUJP
2	5 Presidential Regulation Number 55 of 2022 Concerning Delegation of Granting Business Permits in the Field Mineral And Coal Mining	Article 5 The Central Government shall provide guidance and supervision to Provincial Governments regarding the implementation of the Delegation as referred to in Article
3	Government Regulation Number 6 of 2021 concerning Implementation of Business Licensing in the Regions	Article 34 paragraph (1) Guidance and supervision of Implementation Business Licensing in the Regions is carried out in a coordinated manner between the Central Government and Local government. City district, carried out by the governor as the representative of the Central Government in the regions for general and technical guidance and supervision,

The enactment of Law Number 3 of 2009 concerning Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining Minerals and Coal has resulted in an increase in illegal mining. This is because all mining licensing authority is withdrawn to the center. Even for supervision, the regional government does not have room to overcome this.

The supervisory role should be returned to the regions. Because so far, local governments have not been able to do much with illegal mining practices. The rise of illegal mining has caused damage to the environment and infrastructure. Revenue-sharing funds that return to the regions are not enough to repair the damage. Almost all state, provincial and municipal roads were damaged. Even so, the Regency/City regional government cannot do much to solve the problems that occur in the mining sector at this time.

Presidential Regulation Number 55 of 2022 Concerning Delegation of Granting Business Permits in the Mineral and Coal Mining Sector, explains that the central government delegates part of the authority to issue mining permits to the regions (provinces). However, this authority is only for non-metallic mineral commodities and rocks. delegation of authority to grant mining licenses to regions (provinces). The authority to delegate mining permits is limited to non-metallic mineral and rock commodities, excluding coal mining.

In addition, supervision can be carried out either in a preventive form not repressive. Preventive supervision is supervision that is carried out before an action in carrying out activities, which is usually in the form of procedures that must be followed in carrying out activities, while repressive supervision is supervision that is carried out after an action is carried out by comparing what has happened and what should have happened and is manifested in inspections. local, verification, monitoring and so on.

It is hoped that the enactment of Presidential Regulation Number 55 of 2022 concerning the Delegation of Granting Business Permits in the Mineral and Coal Mining Sector is expected not to cause confusion in licensing. In essence, this presidential regulation delegates the authority of the Central Government to Provincial Governments regarding the granting of Mining Business Permits (IUP) for non-metallic minerals, certain types of non-metallic minerals, and rocks. In addition to the IUP, other permits are granted in the form of rock mining permits (SIPB), people's mining permits (IPR), mining service business permits (IUJP) for 1 province, transportation and sales permits and IUP for the sale of non-metallic minerals, non-metallic minerals. certain types, and rocks are also delegated.

Delegation of Licensing is also accompanied by delegation of authority to grant and determine Mining Business Permit Areas (WIUP) for Non-Metallic Minerals, WIUP for Certain Types of Non-Metallic Minerals, and WIUP for Rock, setting benchmark prices for non-metallic minerals, certain types of non-metallic minerals and rocks, providing recommendations or approval related to the delegated authority.

The authority to carry out Guidance and Supervision of Permits issued is also delegated. Regarding Supervision, in carrying out supervision the Governor assigns Mining Inspectors and Mining Supervision Officials. In this case, the Mining Inspector is only at the Directorate General of Mineral and Coal at the Ministry of Energy and Mineral Resources and currently some supervisory officials are still at the Directorate General of Mineral and Coal. If there is no supervisory officer, the Governor as the Representative of the Central Government appoints an official who carries out the supervisory function of the business aspect, so this is what the Regional Government can determine, and for Lampung Province it is regulated in Lampung Governor Regulation Number 26 of 2022 concerning Amendments to Lampung Governor Regulation Number 47 of 2021 concerning Delegation of Licensing and Non-Licensing Authorities to the Head of the Investment Service and One-Stop Integrated Services

## 2. Criminal Law Instruments

Enforcement of environmental law can also use criminal law instruments, both those that have been specifically stipulated in legislation in the environmental sector, legislation in the natural resources sector, and criminal law instruments in general, in brackets if they have not been specifically regulated. Thus the substances, authorities, institutions and procedures used in enforcing environmental law through criminal law instruments use environmental law provisions unless this has not been specifically regulated in environmental law. In this case, what is used is the provisions that apply in criminal law in general, for example regarding the judiciary personnel and applicable procedural law (Muhammad Nursidiq Muhammad Shafwan Hadi Muhammad Muflih Lubis Faisal Riza. 2021). The ratification of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining is considered to be full of challenges. In addition to increasingly remote supervision because it was withdrawn to the Center and investment permits which were also easier to issue, which resulted in a lot of rejection that arose from people who felt disadvantaged and wanted to save environmental sustainability in their area which became a mining area, they were instead greeted with criminal snares (Muhammad Nursidiq Muhammad Shafwan Hadi Muhammad Muflih Lubis Faisal Riza. 2021)

Many people consider that Law Number 3 of 2020 concerning Mineral and Coal Mining is not in favor of the environment and only provides benefits for corporations. Corporate crime seems to have become an endemic disease in modern society. Much attention has been paid to corporations that neglect to preserve environment by causing pollution to the environment as a result of their production activities. Crimes committed by corporations were previously untouched by law. However, because the corporation is a legal fiction (Made Arya Utama. 2008) then the corporation can commit crimes and be held criminally responsible. The parties that can be held accountable for criminal acts committed by corporations in statutory regulations outside the Criminal Code can be classified as follows:

- 1) Managers and other people who represent administrators as contained in Article 15 paragraph (3) of Emergency Law No. 7 of 1955 and Article 20 of Law no. 20 of 2001.
- 2) Corporations, this provision is regulated in Article 15 paragraph (1) of Law no. 7 of 1955, Article 20 of Law no. 20 of 2001, Article 6 of Law Number 8 of 2010
- 3) Corporate Controllers, as stated in Article 6 paragraph (1) of Law Number 8 of 2010. Corporations and Management, this case, for example, is adhered to in Emergency Law No. 7 of 1955 and Law no. 20 of 200 (Ari Yusuf Amir. 2020)

Mardjono Reksodiputro said there are three models of criminal responsibility corporation, as follows:

- 1) The management of the corporation is responsible for creating and managing the corporation.
- 2) Corporations as creators and administrators are responsible.
- 3) Corporations as creators and also corporations as responsible.

In addition, economic benefits for the state cannot be fully guaranteed, because they must be reduced by the costs of ecological restoration. Where the dredging of Natural Resources should provide a big advantage for the people who are around the Mining area itself, not only for corporates and must not cause degradation that will pose a threat to sustainable development (A. Sonny Keraf. 2010) when there is environmental damage or environmental pollution arising from mining activities carried out by the company mining or corporation, then those who are responsible for the damage and/or other impacts that arise are people based on work relationships, or based on other relationships, either alone or jointly acting for and on behalf of the corporation inside and outside the corporate environment.

The main difficulty in enforcing environmental law using criminal law instruments is regarding evidence. Whether what must be proven is the act, or includes a causal relationship between the act and the consequences of the act,

very much depends on the formulation of the environmental offense that was violated and is used as the basis for criminal charges that must be proven. If the act is suspected of violating the criminal provisions that qualify as "the light for meal", then what is proven is whether or not the prohibited act has occurred.

Proving in the environment in terms of formal offense qualifications is also not easy. There are at least three things that must be proven by the public prosecutor and. First, is it true that an act has occurred? It may not be that difficult. Second, whether the act violates the law. For this reason, it is necessary to carry out careful research on all regulations related to the violations committed.

The difficulty is that laws and regulations in the field of environment and natural resources are still spread across various agencies and it seems that no agency has a complete and up-to-date database on regulations in the field of environment and natural resources. Does he know from the act or have good reason to suspect that the act may cause pollution and or damage to the environment or endanger public health or the lives of other people? It is this third proof that often becomes an obstacle because besides being related to intent it is also closely related to the ability of law enforcers in scientific proof.

### **3. Civil Law Instruments**

Enforcement of civil environmental law is pursued based on a lawsuit, which if using dispute resolution through the court, then what is taken is a civil lawsuit to court country. In this regard, apart from the process of resolving disputes or cases, Evidence is also an important part of making a decision good court and fulfill a sense of justice based on procedural law civil. In civil cases, one of the important parts is the lawsuit, and the lawsuit itself is interpreted as a claim by a person or several people as a plaintiff relating to a civil matter containing a dispute between two or more parties submitted to the Chairperson

District Court where one party as a plaintiff is to sue the other party as a defendant. 20 Law Number 32 of 2009 regulates the parties as plaintiffs who are given their right to sue, which includes the government and regional government's suing rights, community's suing rights, and suing rights environmental organizations, which complement individual claims (Zainal Asikin. 2016) In environmental pollution cases, individual lawsuits and lawsuits by many people can become citizen lawsuits, which are different from previous concepts, provisions and practices. This development departs from the existence of legal standing, which was originally only given to individuals and/or corporations, to being sued by a number of community members (citizens) as well as by organizations such as non-governmental organizations (NGOs). Discussion of civil disputes in this section, specifically related to civil disputes between communities and mining business actors. In the context of civil disputes, as described above, there are two tendencies, namely:

- 1) On the one hand, local people as land owners tend to be victims;
- 2) Mining business actors tend to prefer to use the civil route, because with his various strengths despite the dispute in court continues, business actors can still carry out their mining activities in peace.

Accommodation for civil lawsuits over mining business activities that harm the community actually gains space or legal legitimacy as stipulated in the provisions of Article 145 Paragraph (1) Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, which confirms that people who are directly negatively affected by mining business activities are entitled to:

- 1) obtain proper compensation as a result of mistakes in the exploitation of Mining activities in accordance with the provisions of the laws and regulations; and/or
- 2) file a lawsuit through the court against losses due to mining operations that violate the provisions.

There are no further provisions or other explanations about what is meant as a result of errors in the exploitation of mining activities, only if based on existing events, these errors tend to lead to technical aspects, namely errors caused by human error, work implementation errors, or planning errors, where as a result of these errors causing harm to the local community, communities surrounding mining activities and/or communities within the range of the error occurring.

Civil lawsuits use the basis of lawsuits for unlawful or unlawful acts which rely on claims for compensation including those based on absolute liability (strict liability) which has recently been amended because in Article 88 of the Job Creation Law Number 11 of 2020, the provisions on Liability Absolute Strict Liability underwent editorial changes, by removing the phrase "without the need to prove an element of guilt". The use of civil lawsuits based on

elements of error is a provision that stems from Article 1365 of the Civil Code, as a provision for unlawful acts. Article 1366 of the Civil Code states "Everyone is responsible not only for losses caused by his own actions, but also for losses caused by his negligence or carelessness. Fulfillment of the element of error perpetrator, then the judge has sufficient reason to grant the person's lawsuit harmed as a result of the offender's actions. Thus, the judge must assess and consider the severity of a person's mistakes in relation to an unlawful act. local government can not do much. The regional government cannot enforce the law if violations occur in the mining area, because the regional government only has coordinating powers. The implications if the local government's weak authority in the mining sector is explained in Article 4 paragraph (2) of the a quo law, namely eliminating and eliminating the authority of the regional government in controlling minerals and coal has harmed the constitutional rights of the communities affected by mining activities in the district/district. City.

### Conclusion:-

1. The form of policies that regulate mining is not in accordance with the goals of the Indonesian state, not in sync with the principles of sustainable development. The existing authorities are unclear, and there is still overlapping authority between the central government and regional governments. There is a lot of damage as a result of mining activities because the mining location is in the Regency/City, but the authority lies with the Provincial Government, this problem is certainly not in accordance with the theory of decentralization, which knows the situation and conditions of the Regency/City area is the regional government. The rights of the people affected by these activities cannot be protected.
2. Regional government authorities in the mining sector are still overlapping and also out of sync. Therefore, local governments cannot do much, cannot enforce the law, both administrative, criminal and civil law enforcement. Regional authority must be strengthened, at least the regional government must be involved in coordinating with the central government.

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