

**PRINCIPLE OF BALANCING REGULATION OF MINERAL MINING  
BUSINESS LICENSES FOR SUSTAINABILITY OF ENVIRONMENT**

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**ABSTRACT :** The principle of balance in the regulation of mineral and coal mining business permits is very important because it relates to environmental sustainability and the provisions of the legislation. The principle of balance as the implementation of the principle of good faith, the principle of honest transactions and the principle of justice will provide maximum benefits to humanity, people's well-being and personal development of citizens, the preservation of the nation's noble cultural values □□and environmental sustainability that is sustainable. This is important to maintain the balance of state rights in the control and management of natural resources and as a bridge between legal norms of good business principles. Mineral and stone mining business activitiesember must be based on the principle of good environmental management and control. The problem in this paper is how the urgency of the principle of balance in the issuance of mineral and coal mining business licenses based on environmental sustainability. This research is a type of research article using juridical analysis methods. The results showed that the application of the principle of balance must be present to maintain the continuity of natural support with the human needs whose arrangements are included in the law.

**Keywords:** balance; permit; mining; environment

## **INTRODUCTION**

The aim of the state is to realize public welfare. However, in realizing this goal, it must be based on law. The 1945 Constitution of the Republic of Indonesia is a written legal basis which is the basis of governance, as well as the basis of development and environmental protection of Indonesia. The purpose of the Indonesian state is contained in the fourth paragraph of the Constitution of the Republic of Indonesia, namely: "protect all Indonesians and all Indonesian spilled blood and promote public welfare, educate the nation's life and take part in implementing world order based on independence".

The state has four main components, namely territory, people, government, and sovereignty. In organizing the country, the government and the people are in the same position. The right of state control has the meaning of power in three areas, namely regulating, managing, and

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supervising. This is spelled out in article 33 paragraph (3), namely: "the earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.", Further reflected in article 2 of Law No. 5 of 1960 about Peraturan Dasar Pokok-Pokok Agraria,:

1. On the basis of the provisions in article 33 paragraph 3 of the 1945 Constitution in matters as referred to in article 1, the earth water and space, including natural resources contained therein at the highest level by the state, as an organization of power of all people.
2. The controlling right of the country referred to in paragraph 1 of article 1 gives the authority to: a. To regulate and administer the designation, use, supply and maintenance of the earth, water and space; b. Determine and regulate legal relations between people and the earth, water and space.
3. The authority derived from the right to control the country in paragraph 2 of this article is used to achieve the greatest prosperity of the people, in the sense of nationality, prosperity and independence in the Indonesian society and rule of law, which is independent, sovereign, just and prosperous.

Aspects of economic growth, social justice, and environmental protection become an integrated whole in the regulation and implementation of the management of mineral and coal natural resources. Mineral and coal contained in the jurisdiction of Indonesian mining as a gift from God Almighty, have an important role in meeting the needs of many people's lives.<sup>1</sup> Therefore, the management of mineral and coal mining must be controlled by the state in order to provide tangible added value to the national economy in an effort to achieve prosperity and welfare of the people with justice. Mineral and coal mining business activities have an important role in the sustainable national economic growth.<sup>2</sup> Therefore mining management must be done wisely and wisely, so that there is balance and sustain ability.

Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia places the community as the main group with the aim of welfare for the results of natural resources, so that every control of natural resources is included in the field of mineral and coal mining. Indonesia is a state based on law, in essence the state based on the law has four main things, namely: 1) Government based on law; 2) Guarantee of human rights; 3) power sharing; 4) judicial oversight of the government.<sup>3</sup> These four elements serve as benchmarks for legislation

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1 Tri Haryati, *Era Baru Hukum Pertambangan: dibawah Rezim UU No. 4 Tahun 2009*, Jakarta, Pustaka Obor Indonesia, 2015, page. 2

2 *ibid*

3 A. Hamid S. Attamimi, *Peranan Keputusan Presiden Republik Indonesia Dalam Penyelenggaraan Pemerintah Negara*, Disertasi, Universitas Indonesia, 1990, page. 308

that is good legally, because: a. Every formation of legislation must rely on higher regulations or the source of their attribution; b. Each statutory regulation must not conflict with the basic principles and positive laws governing human rights, including the rights of citizens and local communities, these laws and regulations are generally binding; c. Every statutory regulation must be formed in accordance with positive legal grounds that underlie the environmental authority of the office or state / government bodies at the central or regional levels.

In Indonesia, natural resources are mineral and coal resources. In 2010 the Minister of Energy and Mineral Resources (ESDM) held by Darwin Zahedy Saleh, said that the contribution of the ESDM sector to non-tax state revenues (PNBP) from the oil and gas, mineral, coal, geothermal sector was very large, because in 2010 it was estimated to reach Rp 227 trillion or around 24% of total state revenue.

The state as the holder of the controlling<sup>4</sup> right gives authority to the government<sup>5</sup> to manage natural resources through the issuance of permit, license and concession instruments. The

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- 4 The Constitutional Court in Decision Number 001-021-022 / PUU-I / 2003 by giving an interpretation of the phrase "controlled by the state" in Article 33 of the 1945 Constitution: "The words" controlled by the state "must be interpreted to include the meaning of control by the state in the broad sense sourced and derived from the conception of the sovereignty of the Indonesian people over all sources of wealth "earth and water and natural resources contained therein", including the notion of public ownership by the people's collectivity of the said resources. The people are collectively constructed by the 1945 Constitution giving a mandate to the state to hold policies (beleid) and management actions (bestuursdaad), regulation (regelendaad), management (beheersdaad) and supervision (toezichthoudensdaad) for the purpose of the maximum prosperity of the people.
  - 5 The Constitutional Court in Decision Number 36 / PUU-X / 2012 concerning Testing of Law Number 22 Year 2001 concerning Oil and Gas: "Considering that the Law a quo, constructs relations between countries with business entities conducting Oil and Gas management with civil relations in the form of PSC. According to the Oil and Gas Law, PSCs are Production Sharing Contracts or other forms of cooperation contracts in exploration and exploitation activities that are more profitable and the results are used for the greatest prosperity of the people (vide Article 1 point 19 of the Oil and Gas Law). In a PSC, BP Migas acts on behalf of the Government as a party to the PSC with a Business Entity or Permanent Establishment that manages Oil and Gas. In such a position, the relationship between BP Migas (state) with a Business Entity or Permanent Business Establishment is a civil relationship that is placing the position of the state and Business Entity or Permanent Business Establishment that manages Oil and Gas in an equal position. In this case when the contract has been signed, the state becomes bound by the contents of the PSC. As a result, the state loses discretion to make regulations for the interests of the people that are in conflict with the contents of the PSC, so that the state loses its sovereignty in the control of natural resources, that is, the sovereignty to regulate oil and gas that is contrary to the content of the PSC. Whereas the state, as the people's representation in the mastery of natural resources, must have the freedom to make rules that bring benefits to the greatest prosperity of the people. According to the Court, the relationship between the state and the private sector in managing natural resources cannot be done with civil relations, but it must be a public relationship in the form of granting concessions or permits that are fully under state control and power. Civil contracts will degrade the country's sovereignty over natural resources, in this case Oil and Gas. Based on these considerations, according to the Court, the relationship between the state and oil and natural gas resources as long as they are constructed in the form of PSCs between BP Migas as a State-Owned Legal Entity as a Government party or representing the Government with a Business Entity or Permanent Establishment as regulated in the Act a quo is contrary to the principle of state control referred to by the constitution "

authority of natural resources and minerals and coal contained in Law Number 4 of 2009 concerning Mineral and coal mining (MINERBA Law) and its implementing regulations, especially Government Regulation Number 23 of 2010 concerning mineral and coal mining business activities (hereinafter referred to as PP no. 23 of 2010 as amended several times, the latest by government regulation number 77 of 2014 concerning the second amendment to government regulation number 23 of 2010.<sup>6</sup> Article 6, Article 7, Article 8, Article 35 through Article 63 of the MINERBA Law is regulated regarding licensing authority, both business licensing and business area licensing. UU no. 23 of 2014 concerning Regional Government (hereinafter referred to as the Local Government Law) also regulates the authority of licensing by the central government and regional governments related to the division of affairs in the field of minerals and coal. Licensing authority in the MINERBA Act is divided into the central government, provincial government, and district / city government. Using the administrative authority approach namely permit.<sup>7</sup> Mineral and coal mining business permit consists of:

- Mining Business Permit (IUP): Granting of a permit by the regent covers IUP and IPR (People's Mining Permit) in the district / city and / or sea area up to 4 (four) miles; IUP production operations and IPR whose activities are in the district / city area and / or sea area for up to 4 (four) miles and IUPs that are WIUP within the district / city area
- The People's Mining Business License (IPR) is to carry out mining business in the area of people's mining with limited area and investment. (Article 1 angka 10 of the Mining Law)
- Special Mining Business Permit (IUPK): UPK is a permit to carry out mining business in a special mining business permit area. (Article 1 number 11 of the Law No Miner and coal).

IUP is divided into Exploration IUP and Production Operation IUP. Exploration IUP is a business permit to conduct general investigation, exploration and feasibility study activities. Production Operation IUP is a business permit to carry out stages of production operation activities. Article 6 regulates the authority of the central government to issue: 1. IUP and IUPK which are located in crossing provincial and / or sea areas more than 12 (twelve) miles from the coastline; 2. IUP where the mining location is in a cross-province and / or sea area more than 12 (twelve) miles from the coastline; 3. Production Operation IUP that has a direct environmental impact across provinces and / or in the sea area more than 12 (twelve) miles from the coastline; 4. Production Operation IUP if the mining location, processing and refining location, as well as the port are in different provincial regions after obtaining a recommendation from the local governor and regent / mayor. The governor covers the authority of the location, benefits,

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6 Ahmad Redi, *Dilema penegakan Hukum Penambangan Mineral dan Batubara Tanpa Izin*, Jurnal RechtsVinding, Media Pembinaan Hukum Nasional, page. 402

7 *ibid*

impacts of being cross-regency<sup>8</sup> / city and the regent / mayor covering the location, benefits, and the impact of being in one district / city.<sup>9</sup>

Mining permits that have been stated by individuals, business entities, and cooperatives based on article 38 may carry out business activities that are requested and approved by the authorized official. Without this permit, every Mineral and Coal business actor and entrepreneur cannot be carried out and all such exploitation actions become mining activities without a permit or against the law that enters criminal acts or criminal events.

Mineral and coal mining in the Indonesian jurisdiction, which is a non-renewable natural resource, plays a very important role in fulfilling the lives of many people. Therefore it is controlled by the state to achieve prosperity for the people. Mineral and coal mining business is a business activity that has an important role in providing tangible added value for national economic growth and sustainable regional development.<sup>10</sup>

This shows that the mining sector has an important role for national economic growth and development. The mining sector also provides an economic multiplier effect as a source of income for disadvantaged regions. The mining business also increases the country's foreign exchange and original regional income. The mining area also helps national and regional development.

In the state administration, there are three forms of state involvement in the management of mineral resources, namely regulation (regulation), business (managing) and supervision. The regulatory aspect is an absolute right of the state which must not be left to the private sector and is the most important aspect played by the state among other aspects. The challenges faced in mineral and coal mining are the effects of globalization which encourage democratization, regional autonomy, human rights, the environment, technological and information development, intellectual property rights and demands for increasing the role of the private sector and the community. For this reason, it is necessary to formulate new laws and regulations in the field of mining and minerals that can provide restructuring of the

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8 Article 7 regulates the authority of the provincial government, among others, the issuance of: 1. IUP in cross-regency / city and / or sea areas 4 (four) miles up to 12 (twelve) miles; 2. IUP of production operation whose activities are in cross regency / city and / or sea area 4 (four) miles up to 12 (twelve) miles; 3. IUP with direct environmental impact across regencies / cities and / or sea areas 4 (four) miles up to 12 (twelve) miles; 4. Production Operation IUP if mining locations, processing and refining locations, and ports are located in different regencies / cities after obtaining recommendations from the local regents / mayors in accordance with statutory provisions.

9 Permit granted by the regent includes IUP and IPR (People's Mining Permit) in the regency / city and / or sea area up to 4 (four) miles; IUP of production operation and IPR whose activities are located in regency / city and / or sea area up to 4 (four) mi; and IUPs that are WIUP in one regency / city area.

10 Fenty U Puluhulawa, *Pertambangan Mineral dan Batubara dalam Perspektif Hukum*, Yogyakarta, Interpena Yogyakarta, page 15

management and exploitation activities of mineral and coal mining.

Provinces contributing to state revenue from mining are Aceh, Riau, South Sumatra, East Kalimantan, Sulawesi, and Papua, despite the emergence of separatist movements and cases of riots related to legislation that are considered not to provide justice and legal certainty.

The principle of balance in the regulation of mineral and coal mining business permits is very important in mining business activities. The principle of balance is as the implementation of the principle of good faith, the principle of honest transactions and the principle of justice in order to provide maximum benefit to humanity, increase people's welfare and personal development of citizens and sustainable development.

Permits are regulators or community control norms in carrying out certain activities, including mineral and coal mining. The goal is not to deviate and meet the conditions set. Permits give birth to rights and obligations so that they have constitutive nature.

The mineral and coal law states that mining and / or coal are managed on the basis of benefits, fairness and balance; alignments with the interests of the nation; participation and transparency, and accountability; sustainable, and environmentally friendly. Article 33 paragraph (4) also confirms that the national economy is based on economic democracy with the principles of togetherness, efficiency, fairness, sustain ability, environmental insight, independence, and by maintaining a balance of progress and national economic unity.

The problem of mining business permits issued by local governments is inseparable from the perspective of seeing the nature of a commodity. On behalf of development that pursues economic growth targets and for the sake of increasing the country's income and foreign exchange, the utilization of natural resources is carried out without regard to the principles of justice, democracy and the sustainable functioning of natural resources. The implications arising from the practices of exploiting natural resources that enhance the achievement of economic growth, without regard to the ecological balance and the social and cultural values of the local community, certainly have quite alarming social and cultural implications.<sup>11</sup> The implications of the existence of mining businesses in Indonesia are widely questioned by various groups such as:<sup>12</sup>

1. The damage in the area around the mine;
2. Pollution of the river and sea;
3. Outbreaks of disease for residents living in the mining area;
4. Conflicts between communities around the mine.

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11 I Nyoman Nurjaya, *Pengelolaan Sumber Daya Alam dalam Perspektif antropologi Hukum*, Malang, Universitas Negeri Malang, 2006, page. 69-70

12 H. Salim HS, *Hukum Pertambangan Indonesia*, Jakarta, PT Raja Grafindo Persada, 2008, page. 6

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Based on this, an assessment will be conducted on the urgency of the principle of balance in the regulation of mineral and coal mining business licenses based on environmental protection. Because mining has implications for environmental damage that is very large and damaging the ecosystem and detrimental to the community because they do not get a healthy environment, if not managed properly according to statutory provisions. Conflicts over the control and management of natural resources including mining resources between the community and the government or mining business permit holders. Policies that are not in favor of the interests of the environment, not exactly the type of sanctions at the application stage, there is no common perception among law enforcers on environmental cases, the lack of entrepreneur's legal awareness of the importance of preserving environmental functions, the absence of synchronization, synchronization, and harmony, vertically and horizontally in general environmental law and sectoral environmental law.<sup>13</sup> The tendency of the weak substance of legislation and oversight of permits that have not been optimal has implications for the implementation of law enforcement so that justice, certainty and benefit in activities that utilize natural resources as much as the prosperity of the people including the people around the mining areas do not feel it. This study aims to examine the urgency of the principle of balance in the regulation of mineral and coal mining business licenses based on environmental sustainability.

## **Research Methods**

This research is a type of normative legal research, the author tends to research on the principles of law, namely research to find the principles of law that exist in positive law both written and unwritten. The positive written law refers to the Law on the formation of laws and regulations and related legislation, the principles of the formation of laws and regulations, as well as from court decisions related to mineral and coal mining. This research focuses more on the philosophical approach (philosophical approach), statutory approach (statute approach), conceptual approach (conceptual approach), case approach (case approach). Legal materials that have been collected, processed and analyzed in a qualitative juridical manner by prioritizing legal reasoning, one of which uses legal interpretation.

## **Discussion**

### **1. Balance Principle and urgency in arranging mineral and coal mining business licenses**

Every country has goals for its people. For the Indonesian nation, these objectives are listed in the Preamble to the 1945 Constitution, in the fourth paragraph, namely: (1) protecting the whole nation and all of Indonesia's blood spills; (2) promote public welfare; (3) educating the

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13 Hartiwingsih, *Penegakan Hukum Pidana Lingkungan*, Pidato Pengukuhan Guru besar Universitas Negeri Semarang, 2009, page. 4

life of the nation; and (4) participate in carrying out world order based on freedom, eternal peace and social justice.

Guarantee for the fulfillment of the right to a good and healthy environment<sup>14</sup> for everyone has been stated in article 9 of Law Number 39 of 1999 concerning human rights that: a. Everyone has the right to live, maintain life and improve their standard of living; b. Everyone has the right to live in peace, security, peace, happiness, prosperity, birth and mind;

a. Everyone has the right to a good and healthy environment.

The rules regarding the environment began with Law Number 4 of 1982 concerning Basic Provisions for Environmental Management, then replaced with Law Number 23 of 1997 concerning Environmental Management, and now since October 3, 2009 it has been replaced by Law Number 32 of 2009 concerning Environmental Protection and Management, abbreviated as UUPPLH.<sup>15</sup>

This law is intended to provide protection and management of the environment which starts from the efforts of planning, maintenance, supervision and law enforcement of the environment.

The form of licensing is a decision determined by the government for concrete matters and is the implementation of general regulations governing the public interest. Licensing is included in the "beschikking" category. In Law No. 5 of 1986 concerning PTUN the term State Administrative Decree (KTUN) is a written stipulation issued by a TUN agency or official based on applicable legislation that is concrete, individual and final that causes legal consequences for a person or civil legal entity.

Consideration in the management and exploitation of mineral and coal mining potential is the principle of balance which is also affirmed in article 2 of Law No. 4 of 2009. The principle of balance is the implementation of the principle of good faith, the principle of honest transactions and the principle of justice. Balance in law is based on the reality of a large disparity in society. Therefore, we need a regulatory system that can protect parties in an unprofitable position. The principle of balance is in harmony with the national goals, namely: (1) to protect the entire Indonesian nation, and (2) to promote public welfare based on Pancasila. According to Barda Nawawi Arief, two key words of national purpose are seen, namely "community protection" and "public welfare". The two keywords are identical with terms known in the literature / scientific world as "social defense" and "social welfare". With these two key words, the principle of balance in the national development goals can also be seen.

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14 Fenty U Puluhulawa, Op. Cit, page. 10

15 Ibid, page 10-11

The UUPPLH Law, Law Number 39 Year 1999, the MINERBA Law in principle is a translation of the provisions stipulated in the 1945 Constitution of the Republic of Indonesia as the highest norm. In accordance with the order of the laws and regulations, each product of the legislation must not conflict with the values contained in Pancasila and the 1945 Constitution. Starting from this thought, a benchmark for the principle of mining business licenses is obtained. Minerals and coal against the values contained in the 1945 Constitution, specifically the MINERBA Law, are managed based on the principle of the benefits of equitable justice; alignments with the interests of the nation; participatory, transparency and accountability; sustainable and environmentally friendly.

The importance of the principle of balance in the regulation of mineral and coal mining business licenses is to serve as a guideline for regulating the involvement of the state in taking actions to respect, protect and fulfill the economic and social rights of citizens. To achieve prosperity and welfare of the people. Regulatory factors in the delegation of duties and authority of the nation, licensing bureaucracy which must be adjusted to the general principles of good governance because this is a normative instrument of control, guidance and supervision both mining which is normal in normal conditions and also found to be abnormal, enforcement law, social economy.

Mineral and coal mining must be managed on the basis of a balance in the preservation of environmental functions, taking into account the balance of ecosystems that can be realized in a balanced balance of natural resource use wisely that is not only aimed at renewable natural resources but also against other resources. Because the right to a good environment is the right of the entire community with a harmonious, harmonious and balanced environmental management in the context of maintaining a sustainable environment.

Humans are part of the ecosystem so the principle of balance must be understood properly by the legal bearers who have been given the ability of reason to form a balanced component of life interacting in forming an organized unity. The regularity is caused by the flow between components in the ecosystem that have good functions and cooperation, so that the regularity of the ecosystem is maintained.<sup>16</sup>

Licensing is a form of implementing regulatory and control functions that are owned by the government of the activities carried out by the community. With forms such as registration, recommendations, certification, determination of quotas, and permits to do a business that usually must be owned or obtained by an organization or a person before carrying out an activity and action.

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16 Otto Soemarwoto, *Ekologi Lingkungan dan Pembangunan (Edisi Revisi)*, Djambatan, Jakarta, 1994, page. 22

The criteria that can be used to determine the principle of balance of mineral and coal mining business licenses in law is the Monodualistic Principle. According to the Modualistic principle, the balance is placed and measured between the interests of the community (general) with individual interests. Position Balance between general environmental law and sectoral environmental law, balance between the interests of one business actor and another business actor, the balance between the value of legal certainty and justice, the balance between economic growth and law enforcement, the balance between economic value (economics value) and social value (economic value) social value), the balance between the principles of formal legality and material legality. Licensing is part of the legal relationship between the government and the community in maintaining the balance of community interests with their environment and efforts to realize legal certainty for members of the community concerned.<sup>17</sup>

The principle of balance must exist to harmonize actions based on the provisions contained in the law and must not deviate from the applicable provisions. This aims to provide a balance to the rules of law in the form of laws and regulations that provide effective legal protection in accordance with the needs of the community. To be in line with the principles of the golden rules that teach someone or a party to treat others as they want to be treated.

## **2. Mining Business Permit**

A community mining permit is constructed as a mining authority granted by the Regent / mayor to the local people, meaning that the indigenous people who reside in the area where the mining is carried out (not migrants). Mining business permit (IUP) is a permit granted to carry out a mining business. Based on PP No. 23 of 2010 concerning the implementation of Minerba mining business activities, IUP granted by the Minister, governor, or regent / mayor in accordance with their authority based on an application submitted by a business entity, can be a private business entity, BUMN, or BUMD, Cooperative, Individual, can be a person an individual, a firm, or a limited partnership.

The principle of granting IUP as stipulated in Law No. 4 of 2009 is, one IUP is only allowed for one type of mine. One IUP is only given for one type of mineral or coal. The granting of an IUP cannot be more than one type of mine. Deviations from this principle are possible, in the event that a company that has obtained an IUP, when mining, finds other minerals in the WIUP it manages. The relevant IUP holder is given priority by the government to be able to work on it. But this company does not necessarily be able to mine other minerals it has found, but must first submit a new IUP application to the authorized official. But it could also be that the company is not interested in mining other minerals it has found. Although the company is not interested in working on other minerals, it has an obligation to protect the other minerals from being used by other parties.

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17 Ateng Syafrudin, *Pengurusan Perizinan*, Bandung, St. Aloysius, page. 9

### 3. Sustainable Environment

A healthy environment is the need for all living things. The 1945 Constitution of the Republic of Indonesia Article 28 H paragraph (1) stipulates that: "Every person living in prosperity is born and mentally, lives and has a good and healthy environment and is entitled to receive health services". Based on these provisions it can be interpreted that the need for a healthy environment is the basic right of every person. The environment is defined as all things, conditions, conditions and influences contained in the room we occupy, and influences the things that live, including human life. Environmental spatial boundaries in this sense can be very broad, but for practical purposes the scope is limited to factors that can be reached by humans such as natural factors, political factors, economic factors, social factors and others.<sup>18</sup>

"Environment" as a physical or physical environment that includes and covers all physical elements and physical factors contained in nature.<sup>19</sup> The environment is a resource for human life, brings benefits and plays an important role in health, economic and social. The environment is a resource that in principle its existence is needed.<sup>20</sup> Human life will never be separated from the environment. Human existence is very dependent on the environment.

The environment is a unity of space with all objects, namely living things and non-living things that influence each other. The environment is a unity of space with all objects, forces, and living things, including humans, and their behavior that affects the survival and welfare of humans and other creatures.<sup>21</sup> There are three environmental elements, namely: 1) biotic environmental elements consisting of all kinds of living things, ranging from humans, animals, plants, or other microorganisms or microorganisms. 2) Abiotic is all environmental elements consisting of objects such as water, air, and so forth. 3) Social Culture, environmental elements created by humans in which there are values, ideas, norms, beliefs, and human behavior as social beings or beings who cannot live alone. Utilization of the environment must aim as follows:<sup>22</sup>

- a. Achieving harmony, harmony and balance between humans and the environment
- b. The realization of Indonesian people as environmental beings who have attitudes and actions to protect and foster the environment
- c. Guaranteed interests of present and future generations

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18 Emil Salim, dalam Gatot P Soemartono, 1997, *Mengenal Hukum Lingkungan Indonesia*, Sinar Grafika, Jakarta, page.34

19 Soedjono D, 1979, *Pengaturan Hukum Terhadap Pencemaran Lingkungan Akibat Industri*, Bandung : Alumni, page.20

20 Bachrul Amiq, *Hukum Lingkungan ; Sanksi Administrasi dalam Penegakan Hukum Lingkungan*, Yogyakarta, Laksbang Grafika, page. 77

21 Undang-undang Nomor 32 Tahun 2009 about ketentuan-perlindungan dan pengelolaan lingkungan hidup

22 <https://dlhk.bantenprov.go.id/upload/article-pdf/>

- d. The achievement of the preservation of environmental functions
- e. Controlled use of resources wisely
- f. The protection of Indonesia from external impacts that can cause environmental pollution / damage

Environmental sustain ability is the ability to maintain quality that is valued in the physical environment. Another literature defines environmental sustain ability related to decision making and taking actions that focus on the interests of protecting nature with special emphasis on preserving the ability of the environment to support human life.

Sustain ability has a condition that human activities only use natural resources at the level where they can be replenished naturally. The concept of sustainable development is related to the concept of carrying capacity. Therefore environmental sustain ability, focuses on activities to:<sup>23</sup>

a) prevent threats and increase the impact of damage, b) protect the environment from threats and damage, and c) repair the damage that has occurred. On a global scale, the broad meaning of sustain ability in environmental management involves the management of oceans, freshwater systems, land and atmosphere based on the principles of sustain ability.

Normatively, the management, utilization of the environment and natural resources must pay attention to environmental balance and the preservation of their functions and abilities. Utilization, management of the environment and natural resources is not only to be enjoyed at this time, but must pay attention to the lives of future generations. Therefore it is necessary to take action or preventive action and control the negative impacts of development through the active participation of the parties as stakeholders in development, such as elements of society, investors, and government. Based on the principle of autonomy, the regional government has the authority to regulate and manage its own household affairs, in carrying out the function of creating social welfare and improving the quality of life of the community, so that the local government plays a very strategic role in protecting the environment and controlling the use of natural resources.

## **Conclusion**

The principle of balance in the regulation of mineral and coal mining business licenses is very important because it will relate to mining business activities that apply regulations in concrete terms based on the requirements and procedures applied in statutory provisions. The principle of balance in law is the implementation of the principle of good faith, the principle of honest transactions and the principle of justice which basically has implications for providing

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23 <http://need2bereal.blogspot.co.id/2015/03>

maximum benefits to humanity, improving people's welfare and personal development of citizens and prioritizing the preservation of the noble values □□ of the nation's culture and environmental sustainability life for sustainable and sustainable development. This is important to maintain the balance of state rights mandated in the article as a constitutional basis for the control and management of natural resources. The principle of balance as a means of control that is preventive and repressive. Control over the licensor and the licensee. Government control of mineral and coal mining business activities in an effort to protect minerals and coal in the Indonesian jurisdiction and increase state revenue from the mining sector in running the government and development.

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