



Reconstruction of Law Enforcement in the Mineral and Coal Mining Sector Under Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia: Independence and Strengthening the Role of Civil Servant Investigators in Mineral and Coal Mining Law Enforcement

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ABSTRACT

As a state governed by law, the 1945 Constitution of the Republic of Indonesia holds the highest authority and serves as the foundation for all laws and regulations enacted beneath it. Article 33 paragraph (3) emphasizes the optimal utilization of natural resources to promote the welfare of the Indonesian people. Therefore, all related regulations must align with this objective, including those in the mineral and coal mining sector. This research employs normative legal methods, drawing upon primary, secondary, and tertiary legal sources. The findings indicate that law enforcement in the mining sector not only maintains public security and order but also contributes to achieving the objectives of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Consequently, this area requires specific legal provisions (*lex specialis*). Currently, investigations conducted by the National Police and the *PPNS* (Civil Servant Investigators) of the Ministry of Energy and Mineral Resources have created legal uncertainty and inconsistencies in law enforcement. Therefore, it is necessary to undertake the issue. This reconstruction should include strengthening the authority and independence of the *PPNS* within the Ministry of Energy and Mineral Resources, for instance, by granting exclusive investigative authority to the *PPNS* of the Ministry and repealing the investigative authority of the National Police under the Mineral and Coal Mining Law.

Keywords: law enforcement, mineral and coal mining, article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia

INTRODUCTION

As a state of law, the Constitution has a very important position, namely as the country's constitution. In Dutch literature, the constitution is known as *Grondwet* or the law that is the basis of all laws, this is in line with what was conveyed by Hans Kelsen who stated that if the constitution is the basis of the national legal order (Rudy Rudy, 2015), for this reason all laws and regulations should make the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) as a guideline in its drafting. One of the ideals of the establishment of the Government of the State of Indonesia is to advance the general welfare, then it is explained in more detail in the articles of the Body of the 1945 Constitution of the Republic of Indonesia, one of which is in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which gives a mandate to the state to manage and utilize the wealth of natural resources for the prosperity of the people, this is a very big mandate and responsibility for the state, be it the executive, legislative and judicial branches to make it happen.

To realize the ideal of general welfare is not an easy thing considering the limitations of the state budget so that it is not uncommon to result in a deficit where the state revenue situation is smaller compared to state expenditure (Astuti Prihatiningsih, 2013), in 2022 it is estimated that the deficit of the State Revenue and Expenditure Budget (APBN) will reach Rp. 869.01 trillion (Karo, Mahesa, & Mustikawati, 2022), in 2023 according to accountability for the implementation of the State Budget for the 2023 Fiscal Year (FY), the budget deficit

reached IDR 337.2 trillion. A large budget is needed to realize the progress of general welfare by fulfilling the basic needs of all Indonesian people. If you look at the posture of the 2024 State Budget, it is still dominated by state revenue sourced from taxes, which is around 70.98% of the 2024 State Budget (Ministry of Finance Team, 2024), in the 2025 State Budget posture state revenue from taxes is 82.88% of taxes (Directorate General of Budget of the Ministry of Finance, 2025), the dominance of state revenue from the tax sector cannot be continuously increased, this will certainly be very burdensome for the people so that it can have negative consequences in many aspects including it can encourage inflation, decrease in household consumption, increasing the unemployment rate, weakening people's purchasing power (Dwi Resti Pratiwi, 2022), in addition to economic impacts often resulting in community instability such as large-scale demonstrations in several areas such as the people of Pati Regency and Bone Regency who rejected the increase in the Rural and Urban Land and Building Tax (PBB-P2).

Increasing state revenue should not only rely on taxes because taxes are not the only source of state revenue, this is not impossible because many countries impose low taxes or do not impose taxes at all (Jennifer Hendrylie, 2023). In Indonesia, optimizing the non-tax sector to increase state revenue is not impossible considering the many potentials possessed by the Indonesian nation, both human potential and natural resources, both in the ocean, above and within the land of Indonesia. The founders of the nation have provided a solution, namely by optimizing Indonesia's natural resources, including minerals and coal for the welfare of the people. In order to optimize natural resources in the context of mineral and coal mining, it is not only related to its governance which includes licensing, environmental management, increasing added value but also related to law enforcement in the mineral and coal mining sector (Muhammad Jufri Dewa et al., 2023).

Law enforcement in the mineral and coal mining sector must be in the same direction and part of efforts to realize the main points of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, not only maintaining social order and stability (Angel Nikhio, 2023), therefore it is necessary to look more deeply at the enforcement of mineral and coal mining laws so that it can answer the question of how to enforce the law on mineral and coal mining in accordance with Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia?

Based on this background, this study aims to reconstruct law enforcement in the mineral and mineral sector to be in line with the spirit of Article 33 Paragraph (3) of the 1945 Constitution, especially by examining the independence and strengthening of the role of Civil Servant Investigators (PPNS) of the Ministry of Energy and Mineral Resources. Specifically, the purpose of the study is to analyze the dualism of investigative authority between PPNS and the Police and formulate a more definite law enforcement model oriented to the welfare of the people. The expected benefits of this research are to provide academic contributions in the form of theoretical constructions regarding constitution-based sectoral law enforcement, as well as practical benefits in the form of policy recommendations to strengthen the position of PPNS as the main investigator in order to eliminate legal uncertainty and ensure the optimization of mineral and mineral resources for the greatest possible prosperity of the people.

RESEARCH METHOD

The legal research method was a systematic and structured approach to conducting legal studies. In this study, the method used was normative legal research, which analyzed the purpose of law (the meaning of law and what it ought to be), values of justice, the validity of legal rules, legal concepts, and legal norms. According to Soerjono Soekanto and Sri Mamudji, normative legal research was primarily conducted through library-based sources, including research on legal principles, legal systematics, synchronization of laws, comparative law, and legal history.

The sources of normative law used in this research consisted of three categories. The first was primary legal materials, which had authoritative value and included laws and regulations, official legislative documents, judicial decisions with permanent legal force, and international treaties. The second consisted of secondary legal materials, which comprised legal publications such as books, journals, dictionaries, and expert opinions. The third consisted of tertiary or non-legal materials, which were relevant non-legal publications and data supportive of the analysis.

RESULTS AND DISCUSSION

A. Constitution and Law Enforcement

In general, the constitution is known to be 2 (two), namely the written constitution and the unwritten constitution. Countries that use unwritten constitutions include the United Kingdom and Canada, both countries use customs and are spread in various documents, both new documents and old documents. The understanding of the constitution of scholars has different opinions, according to C.F Strong through his work entitled *Modern Political Constitutions, An Introduction of Comparative Study of Their History and Existing Form*, there are 3 (three) elements obtained in the constitution, namely *first*, principles regarding the power of government, *second*, principles regarding the rights of citizens and, *third*, Principles regarding the relationship between citizens and the government (Adnan, 2017).

There are differences in the understanding of the constitution according to the views of scholars, the constitution comes from the French (*constituer*) which means to form. The term constitution means to form a country or to arrange or declare the formation of a country, while the term constitution comes from the Dutch *language (grondwet)* which consists of the word *grond* which means land, and *wet* which means law, literally *grondwet* interpreted as the Constitution. Some scholars, such as in England, interpret the constitution more broadly than the constitution, but some scholars argue that the constitution and the constitution are the same thing. L.J. Van Apeldoorn distinguishes between constitution *and* constitution (*grondwet*). The constitution (*grondwet*) is considered a written part of the constitution while the constitution *contains* written and unwritten rules, while according to Sri Sumantri it means that if the constitution is the same as the constitution, this is because it is in the practice of constitutional law in various countries, including in Indonesia (Sirojul Munir et al., 2014).

The difference in viewpoint between Indonesian scholars and scholars in the UK in looking at the constitution is certainly due to the influence of different legal systems, Britain is greatly influenced by the *Anglo-Saxon legal system* while Indonesia is influenced by the continental European legal system or *civil law*. The main principle of the continental

European legal system or *civil law* is that law has binding power because it is manifested in written documents that are systematically compiled in certain codifications or compilations, while *Anglo-Saxon* is based on court decisions, *custom* and precedents (Firdaus Muhamad Iqbal, 2022).

An Austrian thinker, Hans Nawiasky (1880-1961) was born on August 24, 1880 in Graz a city in Austria (Marek Kalinowski, 2018), he put forward his thoughts on the theory that if the law is tiered - levels, Hans Nawiasky's theory is called *theorie von stufenbau der rechtsordnung*, according to this theory the legal norms are arranged in stages, the fundamental norms of the state or the basic rules of the state (*staatsgrundgesetz*), which are then formal laws (*formell gesetz*), Autonomous Regulations and Regulations (*Verordnung en autonome satzung*). In the formation of the basic rules of the state it is sourced from the fundamental norms of the state (*staatfundamentalnorm*) (Wahyu Prianto et al., 2024). In the laws and regulations in Indonesia in accordance with Law Number 12 of 2011 concerning the Establishment of Laws and Regulations (Law No. 12 of 2011), it is tiered as Hans Nawiasky's theory. According to Article 7 paragraph (1), Law No. 12 of 2011, the types and hierarchy of laws and regulations consist of:

- a. the Constitution of the Republic of Indonesia 1945;
- b. Decree of the People's Consultative Assembly;
- c. Government Laws/Regulations in Lieu of Laws;
- d. Government Regulations;
- e. Presidential Regulation;
- f. Provincial Regulations; and
- g. Regency/City Regional Regulations.

According to Article 7 paragraph (2), Law No. 12 of 2011, the legal force of laws and regulations is in accordance with the hierarchy, in other words higher laws and regulations override lower laws and regulations and lower regulations cannot conflict with higher regulations, this is in line with the legal principle of *lex superior derogate legi inferiori* (Hana Farah Dhiba, 2019). In terms of the hierarchy of laws and regulations, the position of the 1945 Constitution of the Republic of Indonesia has the highest position, so the laws and regulations under it must not contradict the 1945 Constitution of the Republic of Indonesia. The norms that govern mineral and coal mining in general are based on Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which reads:

"The earth and water and the natural resources contained in it are controlled by the state and used for the greatest prosperity of the people"

One of the earth, water and natural resources contained in it can be in the form of mining potential, be it rocks, minerals or coal that have economic value. Then it is necessary to understand the meaning of being controlled by the state. if we refer to the Constitutional Court Decision Number 85/PUU-XI/2013, then the meaning of being controlled by the state includes activities 1). Formulating policies (*beleid*), 2). Perform management actions (*besturdaad*), 3). Doing the arrangement (*regelendaad*), 4). Doing management (*beheersdaad*), 5). Conducting supervision (*toezichthoudendaad*). If we examine according to the Indonesian Dictionary, prosperity means a state of prosperity, while prosperity itself can be interpreted as having many people and prospering, or all sufficiency and not lack (Cormentyna & Scorsese, 2008). Therefore, it can be concluded that the control

by the state includes 5 (five) aspects which include formulating policies, management, regulation, management and supervision carried out by the state on natural resources, in this case minerals and coal, to be used as much as possible to create a prosperous, sufficient and non-deficient society.

To understand the meaning of being controlled by the state, it is also necessary to look at the history of the drafting of article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Moh. Hatta as one of the drafters of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia delivered his speech related to mining which was compiled in his book Muh. Yamin, the minutes of the BPUPKI/PPKI Session, as follows:

"...Large and similar mining companies are run as state enterprises, because they are operated by the Banjak people and the people are doing the same thing to have consequences for the prosperity and health of the people. And the land and the isja of the state of Punja. But the extent to which the exploitation is carried out can be handed over to the body responsible to the government, according to the established regulations."

In his speech Moh. Hatta explained his main idea about mining, so that mining is run as a state business, because it is done by many people and the way it is done has consequences for the prosperity and health of the people. Exploitation can be handed over to the responsible body to the Government (Fadli Zon, 2016). Moh.Hatta's idea of mining management was carried out by the state in line with Soepomo's thoughts conveyed in the First Session of the Independence Preparatory Business Entity (BUPK) First Session (May 29-June 1, 1945), in his speech on the Constitution of the Indonesian State (May 31, 1945), that the mines that were important to the state would be taken care of by the state itself (Sabri, 2024). To implement Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, it must remain guided by the principles of the state of law to realize welfare for all Indonesian people. The concept of the state of law in the continental European legal system was developed, among others, by Immanuel Kant, Paul Laband, Julius Stahl, Fichte which is popularly known as *rechtsstaat* while in the *Anglo Saxon* tradition or *Cammon law*, the state of law is popularized by the term *rule of law* or often also matched with the term *nomocratie* (nomocracy) (Constitutional Court, 2016). According to J.B.M., Ten Berge the state of law must accommodate the principles of the state of law, namely, 1). Application of the principle of legality, 2). Protection of Human Rights (HAM), 3). The government's attachment to the law, 4). Monopoly of coercion by the government to ensure law enforcement; 5). Supervision of law enforcement by independent judges (Yours truly, 2013). The state of law is very related to the welfare of the people, where the law is not only an instrument to regulate society or only as a night watchman and the conception of liberal democracy but more than that the law must be able to be an instrument for the welfare of the people, or what is called a *welfare state* or welfare state. According to Soerjono Soekanto, the main characteristics of the welfare state include:

- a. The separation of powers according to *the trias politica* is no longer a matter of principle, political considerations are no longer the main thing but work efficiency so that the role of the executive is more important when compared to the role of the legislature;

- b. The role of the state is not only limited to maintaining security and order but broader than that, the state must play an active role in organizing the interests of the people both in social, economic and cultural aspects;
- c. *The welfare state* as a state of material law emphasizes more on social justice than formal equality.

The above description gives us an idea of how to implement Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia must still accommodate the principles of the state of law and the welfare state, this is in line with the goals of the Indonesian nation itself and the purpose of article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The position of the 1945 Constitution of the Republic of Indonesia as a law and regulation that has the highest hierarchy and becomes a guideline in the preparation of laws and regulations under it requires harmony between the 1945 Constitution of the Republic of Indonesia and the laws and regulations that are under it so that the laws and regulations under it are no more than an engineering tool to realize the goals of the Indonesian nation contained in the preamble to the 1945 Constitution of the Republic of Indonesia and the main points thoughts that exist in the trunk of his body in the context of mineral and coal mining are contained in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (*lex superior derogate lex inferior*). The idea of law as a tool of social engineering was pioneered by Roscoe Pound, he was born on October 27, 1870, in Lincoln, Nebraska, United States. Social engineering is used by the pound to explain the functions and roles of the law and the legal expert, according to the pound, the lawyer is like an engineer when he wants to build buildings, bridges and so on (Atip Latipulhayat, 2014).

In an effort to realize the minds and main points in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, of course, there are many aspects that can be discussed, but the author tries to focus on law enforcement. According to Satjipto Raharjo's thought, law enforcement is essentially the enforcement of abstract ideas so that they become reality. According to Soerjono Seokanto, law enforcement is an activity to harmonize the relationship between values described in stable and manifesting rules and attitudes of action as a series of elaboration of values in the final stage to create, maintain and maintain social relationships (Wicipto Setiadi, 2018). According to Gustav Radbruch (1956), Sudikno Mertokusumo and A. Pitlo have 3 (three) elements that must be considered in law enforcement, namely legal certainty (*rechtszekerheid/rechtsmatigheid*), usefulness (*doelmatigheid*), and justice (*gerichtigheid*) (Setiadi, 2018).

Legal certainty (*rechtszekerheid/rechtsmatigheid*), the principle of legal certainty cannot be separated from the reasoning of positivism initiated by Auguste Comte, in his book entitled *Cours de Philosophie Positive*, Comte stated that the positivist meaning is interpreted in 5 (five) possibilities, namely 1). Opponents or opposites who are imaginary; 2). Opponents or opposites that are not beneficial; 3). Opposite or opposite of something doubtful; 4). Opposite or opposite of something that is blurry; 5). Opposite or opposite of something negative (Mario Julyano & Sulistyawan, 2019). Utility, the principle of utilitarianism is often associated with Jeremy Bentham's thinking on utilitarianism. *Utilis* can be interpreted as useful, useful, beneficial, or profitable. According to the Great Dictionary of the Indonesian Language (KBBI) it consists of the word utility, which means

benefits, benefits, and uses. Utilitarianism is a moral philosophy that emphasizes benefit or usefulness as the most basic moral principle (Andi Darma Taufik, 2024). Justice, according to Hans Kelsen as an adherent of *the school of analytic jurisprudence*, according to Andi Reyza Ferdiansyah, states that justice as equality can be equated with the realization of happiness in general, namely the presence of a social condition where everyone gets satisfaction and happiness in general (Purwanto Purwanto, 2020). It seems that justice is the goal to be achieved by law enforcement.

In law enforcement, legal certainty is not only to set aside things that are biased and negative but must pay attention to factors related to the applicable law. In law enforcement, in order for laws and regulations to be effective, legal principles must be paid attention to, including 1). the principle of non-retroactive passing, 2). The principle of *lex superior derogate lex inferior* or higher laws and regulations defeat lower laws and regulations, 3). The principle of *lex specialis derogat lex generalis*, or laws and regulations that are specific in nature defeat laws and regulations that are general in nature, 4). The principle of *lex posterior derogate lex priori*, or new laws and regulations override old laws and regulations. 5). The law is inviolable. 6). The law is a means to achieve welfare for the community and individuals, through renewal and innovation (Solikin, 2019). The conformity between the lower set of laws and regulations (*lex superior derogate lex inferior*) requires that the enforcement of mineral and coal mining laws must be an effort to realize the goals and main points of thought in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

Law enforcement in the mineral and coal sector, which is an effort to realize the main objectives of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, makes it have its own characteristics when compared to other law enforcement, for example law enforcement carried out by the Indonesian National Police (Polri). Historically, law enforcement by the National Police cannot be separated from Article 2 paragraph (2) of the Decree of the People's Consultative Assembly of the Republic of Indonesia Number VI/MPR/2000 concerning the Separation of the Indonesian National Army and the National Police of the Republic of Indonesia (TAP MPR No. VI/MPR/2000), which reads:

"The National Police of the Republic of Indonesia is a state tool that plays a role in maintaining security".

Which is then manifested in Article 30 paragraph (4) of the Constitution of the Republic of Indonesia, namely:

The National Police of the Republic of Indonesia as a state tool that maintains public security and order is tasked with protecting, protecting, serving the community, and enforcing the law

Based on Article 30 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, the position of the police is a state tool that has a role in maintaining public security and order and has duties 1). protect, 2). Nurture, 3). 4) and enforcing the law. Therefore, the duties of the National Police, including law enforcement, are an effort to realize the role of the National Police itself, namely to maintain public security and order. The role of the National Police, if we compare it with the purpose of law enforcement on mineral and coal mining, namely optimizing mineral and coal mining for the welfare of the people, is very different. The difference in the objectives of law enforcement in the mining

and mineral and coal sectors and the law enforcement of the National Police requires that the enforcement of mineral and coal mining laws be specially regulated (*lex specialis*).

The regulation of mineral and coal mining law enforcement that is specifically regulated is expected to provide more legal certainty because so far, the dualism of investigators in criminal acts has caused problems of conflict of interest, can provide more benefits and justice to the wider community.

B. Expansion of the Authority of the National Police and the Dualism of Mineral and Coal Mining Investigations

Article 30 paragraph (4) of the Constitution of the Republic of Indonesia has explained the position, role and duties of the National Police, then clarified again regarding the main objectives and duties of the National Police as outlined in Article 4 regarding the objectives of the National Police and Article 13 of Law No. 2 of 2002 concerning the main duties of the National Police, namely

"The National Police of the Republic of Indonesia aims to realize domestic security which includes maintaining public security and order, order and law enforcement, the implementation of protection, protection, and service to the community, as well as fostering public peace by upholding human rights"

The main duties of the National Police according to Article 13 of Law No. 2 of 2002 (Law No. 2 of 2002), namely 1). Maintaining public security and order, 2). Enforcing the law, 3). Providing protection, protection, and service to the community.

Based on the explanation above, the authority of the National Police has been expanded from time to time, even on March 2, 2023, the *Rukun Warga* (RW) Police program has been launched, this can have positive consequences but can also have negative consequences. Positive consequences include early identification of security disturbances (Hendra Krisnawan & Lubis, 2024), but negative consequences of the power of institutions that are too broad, there is a tendency to abuse of authority. In the context of law enforcement and the implementation of the main duties of the National Police, the authority of the National Police, especially in terms of investigations, is very broad, as stipulated in Article 14 letter g of Law No. 2 of 2002, namely to conduct investigations and investigations of all criminal acts in accordance with the criminal procedure law and other laws and regulations, this article has provided space for National Police investigators to conduct investigations in all forms and aspects of criminal acts without exception.

The breadth of the authority of the National Police to conduct investigations and investigations of all criminal acts often causes conflicts in its implementation, such as the conflict of investigative authority between the National Police investigators and the Civil Servant Investigators (PPNS) of the Lampung Fisheries Agency (Basuki, 2021), pulling the authority of law enforcement in handling illegal logging cases (Rinaldy Amirullah, 2015), overlapping authority for investigating narcotics cases between investigators of the National Narcotics Agency and National Police investigators (Ferry Anggriawan Verdy Khrisna, 2023). The breadth of investigative authority by Police investigators which seems to cover almost all aspects is very vulnerable to abuse, as we know the accumulation of authority in one individual or one institution alone has the potential to become tyranny in this context can be called "investigative tyranny", for that there must be a division of power or separation

of powers, this has long been initiated by Confucius, John Locke and Montesquieu to reduce tyranny (Ridwan, 1996).

The expansion of the authority of the National Police, which previously only maintained security as TAP MPR No. VI/MPR/2000 to the establishment of various agencies, directorates, divisions, units and personnel coverage up to the RW level, the authority of investigation in almost all sectors is considered a translation of the duties of the National Police itself. In terms of observing the expansion of the authority of the National Police, we need to look back at the history of the separation of the TNI and the National Police, namely the National Police plays a role in maintaining security, therefore the authority of the National Police cannot be separated from the original purpose of separation between the TNI and the National Police. In terms of law enforcement and investigation, the author argues that the investigative authority of the National Police should not go beyond its original purpose, which is to maintain security.

In the context of the authority to investigate in mineral and coal mining, it is regulated in Article 149 of Law No. 4 of 2009, given to 2 (two) institutions, namely 1). National Police of the Republic of Indonesia, 2). Civil Servant Investigator (PPNS) of the Ministry of Energy and Mineral Resources. This can certainly have the potential for legal uncertainty because it can be carried out by two state institutions with different constitutional foundations so that they have different orientations, Article 33 paragraph (3) of the Constitution of the Republic of Indonesia aims to optimize natural resources for welfare while Article 30 of the Constitution of the Republic of Indonesia aims to realize public security and order. Based on the above description, the author argues that the authority of the National Police in the investigation of mineral and coal mining should be abolished, considering that based on the 1945 Constitution of the Republic of Indonesia, the orientation of law enforcement by the PPNS of the Ministry of Energy and Mineral Resources and the National Police should be different, in addition to that the mechanism regarding the investigation of PPNS of the Ministry of Energy and Mineral Resources must be specially prepared (*lex specialis*) to synergize with the main ideas of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

Regulations specifically regarding law enforcement in the mineral and coal mining sector so that it is more directed to realize the goals and main points of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, by providing legal certainty in investigations, providing independence of the PPNS of the Ministry of Energy and Mineral Resources and strengthening its duties and functions, thereby eliminating the dualism of investigations. Expanding benefits, in terms of law enforcement, the mineral and coal mining sector must be able to optimize natural resources for the welfare of the people, which of course still pays attention to the environment and its sustainability. In this case, criminal law enforcement is not the main thing but the last effort in law enforcement (*ultimum remedium*) because law enforcement in the mining sector is part of the welfare of the people, so that justice is realized.

The regulation of law enforcement in the mineral and coal sector in particular will certainly provide a strong position in the legal system. The legal principle of *lex specialis derogat lex generalis* is one of the foundations of this enforcement. In general, the principle of *lex specialis derogate lex generalis* is interpreted if a special law sets aside a general law.

According to Purbacaraka and Soerjono Seokanto, the meaning of this principle is that in special legal events it is mandatory to apply laws that mention the event, although in those special legal events there are more general laws. Meanwhile, according to Eddy Omar Sharif Hiariej Judging from the perspective of penal *policy*, the existence of the principle of '*lex specialis derogat legi generali*' is actually a decisive legal principle in the application stage. *Lex specialis derogate lex generali* is important for law enforcement to determine the laws and regulations that apply to the criminal cases they handle.

In criminal law, the principle of *lex specialis derogate lex generalis* is normed in Article 63 paragraph (2) of the Criminal Code (KUHP),

"If an act is included in a general criminal provision, but also included in a special criminal provision, then only that specific one applies" (Shinta Agustina, 2015)

Based on the description above, several important points can be taken:

- a. The expansion of the authority of the National Police in law enforcement, especially investigations, needs to be limited and returned in accordance with the original role of the National Police, the separation between the TNI and the National Police, namely maintaining security. The continuous expansion of authority can cause a tendency to abuse authority.
- b. There is a difference between law enforcement for those carried out by the National Police and law enforcement in the mineral and coal sectors. Law enforcement by the National Police aims to maintain security while law enforcement in the mineral and coal sector is to optimize natural resources for the welfare of the people.
- c. Investigations into the mineral and coal sector contained in the Law on Minerals and Coal must be prepared and special, because it specifically regulates the management and exploitation of mineral and coal mining, including law enforcement. This specificity causes the need for special law enforcement as well (*lex specialis derogate lex generlis*).
- d. In the Law on Minerals and Coal, the authority to investigate that can be carried out by Police Investigators and PPNS can cause legal uncertainty, so it is necessary to affirm the authority of the PPNS in the Energy and Mineral Resources sector to conduct investigations in accordance with the meaning and purpose of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

CONCLUSION

Law enforcement in the mineral and coal mining sector played a crucial role not only in maintaining public security but also in realizing the fundamental objectives of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which emphasized the optimal use of natural resources for public welfare. However, the overlapping investigative authority between the National Police (Polri) and the Civil Servant Investigators (PPNS) of the Ministry of Energy and Mineral Resources created legal uncertainty and inefficiency in law enforcement. Therefore, restructuring efforts were necessary to align law enforcement mechanisms with constitutional principles through strengthening the authority and independence of PPNS, including granting them exclusive investigative powers in this sector. Future research could focus on designing an integrated model of mineral and coal mining law

enforcement that ensures coordination, accountability, and constitutional conformity across institutions.

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