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LEGAL PROTECTION OF INDIGENOUS COMMUNITIES IN MINING LAW PERSPECTIVE IN INDONESIA

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Abstract

Negara Indonesia ialah negara hukum, ketentuan ini dijamin dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (UUD NRI Tahun 1945), pada Pasal 1 ayat (3). Sebagai negara hukum Indonesia memiliki kewajiban untuk melindungi segenap rakyat Indonesia, termasuk mengatur kemanfaatan semua aspek kehidupan agar mampu memberikan kemakmuran bagi seluruh rakyat Indonesia. Pada penjelasan Pasal 33 ayat (4) disebutkan bahwa: "...Khusus tempat pemakaman, tempat yang dianggap suci dan tanah milik masyarakat adat, sebelum dikeluarkan izin dari instansi Pemerintah yang berwenang perlu mendapat persetujuan dari masyarakat setempat." Ketentuan ini menganulir larangan penggunaan tanah masyarakat adat untuk usaha Migas dan Pertambangan. Dengan kata lain, kegiatan Migas dan Tambang dapat dilakukan di atas tanah masyarakat adat setelah mendapatkan persetujuan dari masyarakat adat. Persetujuan masyarakat adat tersebut dilakukan dalam bentuk penyelesaian secara musyawarah dan mufakat untuk mendapatkan keputusan mengenai cara jual beli, tukar-menukar, ganti rugi yang layak, pengakuan atau bentuk penggantian lain kepada pemegang hak atas tanah.

Kata kunci : pertambangan, migas, masyarakat adat, perlindungan hukum.

Abstract

The State of Indonesia is a state of law, this provision is guaranteed in the 1945 Constitution of the Republic of Indonesia (1945 Constitution), in Article 1 paragraph (3). As a state of law, Indonesia has an obligation to protect all Indonesian people, including regulating the benefits of all aspects of life in order to be able to provide prosperity for all Indonesian people. In the elucidation of Article 33 paragraph (4) it is stated that: "... specifically burial sites, places that are considered sacred and land owned by indigenous peoples, prior to the issuance of permits from the relevant government agencies need to get approval from the local community." This provision annulled a ban on the use of indigenous peoples' land for oil and gas and mining businesses. In other words, oil and gas and mining activities can be carried out on indigenous peoples' lands after obtaining approval from indigenous peoples. The agreement of the indigenous peoples is done in the form of a deliberation and consensus settlement to obtain a decision on how to buy and sell, exchange, appropriate compensation, recognition or other forms of compensation to the holders of land rights.

Keywords: mining, oil and gas, indigenous peoples, legal protection.

Introduction

The State of Indonesia is a state of law, this provision is guaranteed in the 1945 Constitution of the Republic of Indonesia (1945 Constitution), in Article 1 paragraph (3). As a state of law, Indonesia has an obligation to protect all Indonesian people, including regulating the benefits of all aspects of life in order to be able to provide prosperity for all Indonesian people. Indonesia's legal state is based on the concept of a welfare state (walfare state), which aims at the greatest prosperity of the people. This is a constitutional mandate in Article 33 paragraph (3) which states that, "the earth, water and natural resources contained therein are controlled by the state for the greatest prosperity of the people". The purpose of the welfare state is to guarantee the rights of citizens in the modern era, which is dependent on the availability of natural resources. The condition of the availability of natural resources is a decisive factor in fulfilling the basic rights of citizens.

The constitutional foundation that underlies agrarian arrangements (land) is formulated in Article 33 paragraph (3) of the 1945 Constitution. In this article it is stated that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity. people. While the constitutional basis of taxation is stipulated in Article 23 paragraph (2) of the 1945 Constitution. In that article it is stressed that all taxes for state needs are based on the Law. The aforementioned article, although simple, has a deep meaning, because it contains the philosophy of democracy.

One of the most important natural resources in guaranteeing prosperity in Indonesia's rule of law in the current era of globalization is land. The existence of land becomes an important natural resource for the Indonesian state, which is regulated in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), in Article 1 paragraph (1) states that, "all land within the territory of the State of Indonesia is the common land of all Indonesian people ". Furthermore, Article 6 of the BAL states that, "All land rights have a social function". The article is further stated as one of the principles of land law which is termed the principle of the social function of land rights. The existence of the principle of social functions of land rights in land law becomes the fundamental foundation for the realization of land that is beneficial to the greatest prosperity of the people in the welfare state.

Article 33 paragraph (3) of the 1945 Constitution mandates that the utilization of natural resources (SDA), including land, is for the greatest prosperity of the people. The constitutional mandate mandates the state that everything related to the land as for the indigenous people, the water and the natural resources contained therein in Indonesia must be managed and utilized for the greatest prosperity of the people. Land has many uses, both economically, socially, legally, and politically. Land use is economically

utilized by the community in order to find livelihoods for the surrounding community by selling land, besides that land can also be used to carry out economic activities such as buying and selling goods on a piece of land. Socially, land can be used as a shelter by building houses and carrying out other social activities.

Maria S. W. Sumardjono as quoted by Arie Sukanti Hutagalung (2010) stated that there was a change in land policy (prorakyat to procapital) that made the use of the land further from equitable development and social justice was difficult to realize. The phenomenon can be seen from (Doly; 2017):

1. The soil functions as a mechanism capital accumulation resulting in the marginalization of the rights of agricultural landowners;
2. Along with the development of capitalism, land value is only seen based on its economic value (land as a commodity), non-economic value becomes ignored / neglected;
3. Changes in the function of land, land as one of the main productions becomes a means of investment and a means of speculation / capital accumulation;
4. Economic globalization encourages land policies that are increasingly adaptive to market mechanisms, but have not yet been followed by strengthening access of people and traditional / traditional / local legal communities to land acquisition and use.

Customary law as a law that originates from Indonesian society becomes the soul and spirit in Agrarian regulation in Indonesia. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, hereinafter referred to as UUPA, clearly states Indonesian agrarian law based on traditional communalistic religious law. Pure customary land law that is conceptual in nature, which embodies the spirit of mutual cooperation and kinship that is overwhelmed by religious atmosphere (Harsono, 2003). The religious communalistic concept allows the mastery of a shared piece of land as a gift from God Almighty with individual rights over the land. It can be said that individual rights are in some shared lands which have strengthened along with the times.

In the life of the state, individuals, and society, land is an object that is needed. The current land problem is not only a claim for land rights, but also concerns the authority in the field of land between the central government, the provincial government, and the district / city government. The authority of the government in the land sector as regulated in Article 2 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), is a centralized authority. Based on the authorities contained in national land law, it turns out that the formation of national land law and its implementing regulations according to their nature and principle are the authority of the central government (Gunawan; 2008). This means that in the field of land, the authority lies with the central government, while the regions only exercise authority by deconcentration or delegation of authority from the center to the regions and medebewind

(assistance) is the assignment of the central government to the regions (Supriyanto, 2009). This centralized authority creates difficulties for the provincial and district / city governments in handling land issues quickly and appropriately. While the development of land needs will increase along with the increasing population (Fitri; 2018).

Land that is supposed to be the object for the welfare of the people by utilizing land for the benefit of the community becomes "prosperous" for certain groups. Communities make land as an investment tool and valuable goods whose sale value can be profitable. Land is one of the objects of conflict in the community. One of the main problems in this dispute is that land is not well distributed to the community. Inequality between the rich and the poor is becoming increasingly visible. Land ownership is not balanced, rich people own a lot of land, whereas poor people increasingly do not own land. This article will review about Legal Protection of Indigenous Communities in Mining Law Perspective in Indonesia.

Discussion

State Control of Land Based on UUPA

In Article 2 paragraph (2) of the UUPA states that the right to control the state is to give authority to (Harsono; 2005): 1. Manage and administer the designation, use, supply and maintenance of earth, water and space; 2. Determine and regulate legal relationships between people and the earth, water, and space; 3. Determine and regulate legal relationships between people and legal actions concerning earth, water, and space. Elucidation of Article 2 of the UUPA mandates the state to control and manage first, namely, regulating and organizing the designation, use, supply and maintenance of the earth, water and space. If it is related to land, then there are rules regarding the designation, use and supply of land that is legalized through land certificates. As for the land certificate there is a permit or certificate of ownership of land rights in which the use or designation of the land is contained. Article 4 paragraph (1) of the UUPA states that on the basis of the right to control from the state, there are various kinds of rights to the surface of the earth, called land, which can be given to and owned by people, both alone and together with the people. other people and legal entities.

In addition to giving authority to the Government to control land by registering ownership of a person's land rights, the BAL also gives authority to the owner of land rights to manage and utilize the land. This is regulated in Article 4 paragraph (2) of the UUPA which states that it grants authority to the recipient of the right to use the land concerned, as well as the body of the earth and water and the space above it, is only needed for interests directly related to the use of the land within limits according to this law and other higher legal regulations. Based on this, it can be said that the management and utilization of a piece of land can be done by the owner of the land rights. Management and utilization of the

land is carried out for the welfare of the owners of land rights (Doly; 2017).

Secondly, BAL provides a mandate for the state to have a legal product that regulates the legal relationship between people and the earth, water and space. This is an order for the legislators in this case the Government and the House of Representatives of the Republic of Indonesia (DPR RI) to form or enact various laws and regulations relating to land, water and space related to their management or use. Land management already has various laws and regulations, but in the implementation of these laws and regulations do not have the same perception or have the same goals as the UUPA.

Maria SW Sumardjono stated that various laws and regulations in Indonesia specifically regulating land overlap or inconsistency with the result of degradation in the quality and quantity of natural resources (Doly; 2017). This means that the inconsistency of a rule or overlapping regulations and regulations creates legal uncertainty regarding various activities in the land sector. Therefore, we need a regulation that can regulate definitely related to natural resource management

Third, determining and regulating the legal relations between people and legal actions concerning earth, water and space are intended to regulate all activities that can be carried out on natural resources. Basically, the regulation of legal relations between subjects and legal objects is based on the basis of ownership of land rights. Ownership or control of land can be used as a source of welfare or improve a person's standard of living. This is regulated in statutory regulations, whereby if someone wants to use his land to be traded or as a place to buy and sell, then there are rules or legal procedures for ownership of land rights.

Transfer of ownership of land rights is regulated in legislation, as well as the use of land as a place to do business, the land must have a business license. Based on this, it can be said that everything related to land management and use is regulated in legislation. This is directly related to the existence of legal certainty that the management and use of land can be done by someone who already has rights to the land.

Law of The Republic of Indonesia Number 4 of 2009 Concerning Mineral and Coal Mining

Article 33 section (3) of the 1945 Constitution asserts that the land, the waters, and the natural riches contained therein shall be controlled by the state and exploited in the greatest prosperity of the people. Given minerals and coal as natural riches contained in the land are nonrenewable natural resources, the management thereof needs to be optimally conducted in efficient, transparent, sustainable, environmentally-sound, and just manners in order to reap the continuous benefits in the greatest prosperity of the people. To implement the provisions of Article 33 section (3) of the 1945 Constitution, Law Number 11 of 1967 concerning Basic Provisions on

Mining is thus enacted. The Law has about four decades since its enactment given important contributions to national development.

As time passes, the law with centralized contents no longer keeps pace with the current situations and future challenges. In addition, mines development must adjust itself to both national and international strategic environmental changes. The primary challenge faced by mineral and coal mining is the globalization effects that push democratization, regional autonomy, human rights, the environment, technology and information developments, intellectual property rights and demands for improved private and public participation. To face the strategic environmental challenges and in response to the number of issues, it is necessary to prepare new laws and regulations in the field of mineral and coal mining to legally base a reform move and reorganization of management and business of mineral and coal mining.

Chapter III Control of Minerals and Coal Article 4 Minerals and coal as nonrenewable natural resources shall constitute national property that is controlled by the state in the greatest prosperity of the people. Control of minerals and coal by the state as intended by section (1) shall be conducted by the Government and/or the regional governments. Article 5 In the national interests, the Government upon consultation with the House of Representatives of the Republic of Indonesia may adopt a policy on preference for domestic mineral and/or coal needs. National interests as intended by section (1) may be realized by making supervision of production and export. In the making of supervision as intended by section (2), the Government shall have the authority to set the annual production quantity of any commodity for any province. The regional governments shall comply with the quantity terms that are set by the Government as intended by section (3). Ancillary provisions on preference for domestic mineral and/or coal needs as intended by section (1) and supervision of production and export as intended by section (2) and section (3) shall be governed by regulation of the government.

Authority of the provincial governments in the management of mineral and coal mines shall be, inter alia: to make provincial laws and regulations; to grant Mining Permits, direct, settle communal conflicts, and supervise mining business overlapping the boundaries of districts/cities and/or in the territorial sea from 4 (four) miles to 12 (twelve) miles; to grant Mining Permits, direct, settle communal conflicts, and supervise mining business with direct environmental impacts overlapping the districts/cities and/or in the territorial sea from 4 (four) miles to 12 (twelve) miles; to conduct inventory, surveys and research as well as explorations to find data and information about minerals and coal within their authority; to manage information on geology, information on potential mineral and coal resources, as well as information on mining in provincial areas/territories; to prepare balance

sheet of mineral and coal resources in provincial areas/territories; to develop and increase added value to mining business activities in provinces; to foster and improve public participation in mining business with due regard to the environmental sustainability; to coordinate permission and supervision of explosive use in mining zones within their authority; to deliver information on the results of inventory, general surveys, and research as well as explorations to the Minister and regents/mayors; to deliver information on the results of production, domestic sales, and export to the Minister and regents/mayors; to direct and supervise reclamations of postmining lands; and to improve the capability of apparatus of provincial governments and district/city governments in the conduct of management of mining business.

Regulation of The Government of The Republic of Indonesia Number 23 of 2010 Concerning Implementation of Mineral and Coal Mining Business Activities

Article 33 of the 1945 Constitution of the State of the Republic of Indonesia underscores that the land and the waters and the natural resources contained therein shall be controlled by the State and exploited for the best prosperity of the people. Given that minerals and coal as natural resources contained in the land are non-renewable natural resources, the management thereof needs to be conducted in optimum, efficient, transparent, sustainable, environmentally sound and just manner in order to obtain the maximum ongoing benefit and greatest prosperity for the people.

Aligned with the promulgation of Law Number 4 of 2009 concerning Mineral and Coal Mining, it is necessary to renew the governance of mineral mining business activities that include: Mining commercialization that is allowed in the form of Mining Permit, Special Mining Permit, and Small-Scale Mining Permit; Preference for domestic minerals and coal supply to guarantee the availability of minerals and coal as raw materials and/or as energy sources for domestic needs; Implementation and control of mining business activities in efficient, effective, and competitive manner; Increase in income of the local communities, regions, and state, as well as the creation of job opportunity in the best welfare of the people; Transparent issuance of mineral mining business permits to hopefully make the business climate more sound and competitive; Increase in added value in the undertaking of mineral and coal processing and refining/smelting domestically.

In Article 2 (1) Implementation of mineral and coal mining business activities shall aim to carry out policy on a preference for domestic use of minerals and/or coal. (2) Mineral and coal mining as intended by section (1) shall be classified into 5 (five) mining commodities, as follows: a radioactive minerals that include radium, thorium, uranium, monazite and other radioactive excavated materials; *Elucidation of Article 2 Section (2) (a): Radioactive*

minerals in this provision include nuclear excavated materials. (2)metal minerals that include lithium, beryllium, magnesium, kalium, calcium, gold, copper, silver, lead, zinc, tin, nickel, manganese, platinum, bismuth, molybdenum, bauxite, mercury, wolfram, titanium, barite, vanadium, chromite, antimony, cobalt, tantalum, cadmium, gallium, indium, yttrium, magnetite, iron, galena, alumina, niobium, zirconium, ilmenite, chrome, erbium, ytterbium, dysprosium, thorium, cesium, lanthanum, niobium, neodymium, hafnium, scandium, aluminum, palladium, rhodium, osmium, ruthenium, iridium, selenium, telluride, strontium, germanium, and zenotime; nonmetal minerals, including diamond, corundum, graphite, arsenic, quartz, fluorspar, criolite, iodine, bromine, chlorine, sulfur, phosphate, halite, asbestos, talc, mica, magnesite, yarosite, ocher, fluorite, ball clay, fire clay, zeolite, kaolin, feldspar, bentonite, gypsum, dolomite, calcite, chert, pyrophillite, quartzite, zircon, wollastonite, limestone, dolomite, yarosite, tawas (alum), quartz rocks, perlite, rocksalt, clay, and limestone for manufacturing cement; d. rocks that include pumice, trass, toseki, obsidian, marble, perlite, diatomaceous earth, fullers earth, slate, granite, granodiorite, andesite, gabro, peridotite, basalt, trachyte, leucite, ball clay, soil fill, pumice, opal, chalcedony, chert, quartz crystal, jasper, chrysoprase, silicified wood, gamet, jade, agate, diorite, topaz, large quarry rock piles, excavated hill gravels, river gravels, river rocks, river gravels sieved without sand, sand fill, sieved sand, natural sandy gravels, selected fill material (earth), local landfill, red earth (laterite), onyx, sea sand, sand not containing elements of metal minerals or elements of nonmetal minerals in considerable amounts when sighted from the perspective of mining economy; and e. coal, including solid bitumen, asphalt rocks, coal, and peat.

Legal Protection of Indigenous Communities In Mining Law Perspective In Indonesia

Customary law community is an autonomous community unit in an autonomous customary territory, where they regulate their living systems independently (among others: law, politics, economy, etc.) and are also autonomous, namely a customary community that is born or formed by the community itself, not formed by other forces, for example village unity with the Village Community Resilience Institute. The life of indigenous peoples is now not fully autonomous and is separated from the process of integration into the unity of life organizations

a large-scale nation state with a national format. So that the formulations regarding indigenous peoples made in the period before independence tend to be rigid in the conditions of static indigenous peoples without the pressure of change, while the formulations about indigenous peoples made after independence are more dynamic looking at the reality of indigenous peoples currently under pressure of change (Martua Sirait; 5).

Maria S.W. Sumardjono defines the customary law community as a

community that arises spontaneously in certain areas with a great sense of solidarity among its members and views non-members as outsiders, using their territory as a source of wealth that can only be fully utilized by its members, utilization by outsiders must be with certain licenses and rewards in the form of recognition (Abrar Saleng, 2004: 51). In the literature and laws and regulations there are two mention of the term indigenous peoples, there are those who call it indigenous people and there are also those who call indigenous peoples. However, the difference in terminology does not deny or assert customary rights owned by the community concerned (Lisman Sumardjani, 2007: 1).

The International Labor Organization (ILO) issued ILO Convention No. 169 of 1989, which defined indigenous peoples as people who lived in independent countries where their social, cultural and economic conditions differentiated them from other parts of the country, and their status was regulated, both in whole or in part by the customs and traditions of the people. the custom or with specific laws and regulations (Abrar Saleng, 2004: 4).

The term indigenous peoples began to worldwide, after the ILO in the 1950s, a world body in the United Nations (hereinafter referred to as the United Nations) popularized the issue of indigenous peoples. After being exhaled by the ILO as a global issue at UN agencies, the World Bank also adopted the issue for development funding projects in a number of countries, through OMP (1982) and OD (1991) policies, especially in third countries, such as Latin America, Africa, and Asia Pacific. The rise of the issue of indigenous peoples originated from various native people's protest movements in North America who demanded development justice, following the presence of a number of transnational mining companies operating in their management areas, and the development of a number of conservation areas by the US and Canadian governments (Azmi Siradjudin AR, 2010: 1). Mining management in Indonesia is regulated in Law no. 22 of 2001 concerning Oil and Gas, and Law No. 4 of 2009 concerning Mineral and Coal Mining.

In Law No. 2 of 2001 concerning Oil and Gas (Oil and Gas Law) regulated on the protection of indigenous peoples, as contained in Article 11, Article 33 and Article 34 of the Oil and Gas Law. In Article 11 of the Oil and Gas Law which regulates Cooperation Contracts (KKS) in the upstream oil and gas business, it is determined that the KKS must make a number of basic provisions, one of which is the development of the surrounding community and the guarantee of the rights of indigenous peoples. With this provision, all PSCs held by an oil and gas company must contain how to protect the rights of indigenous peoples if the concession area of the oil and gas company is above or near the area of life of indigenous peoples.

In addition, Article 33 and Article 34 of the Oil and Gas Law regulate the management of Oil and Gas in relation to land rights. Article 33 paragraph (3) of the Oil and Gas

Law states that Oil and Gas business activities cannot be carried out at burial sites, places considered sacred, public places, public facilities and infrastructure, nature reserves, cultural reserves, and land owned by indigenous peoples. Thus it seems clear that in principle oil and gas business activities cannot be carried out on indigenous peoples' lands. However, in other arrangements it is determined that customary oil and gas business activities can be carried out on indigenous peoples' lands after obtaining approval from indigenous peoples. In the elucidation of Article 33 paragraph (4) it is stated that: "... specifically burial sites, places that are considered sacred and land owned by indigenous peoples, prior to the issuance of permits from the relevant government agencies need to get approval from the local community." This provision annulls the ban on the use of indigenous peoples' land for oil and gas business. In other words, oil and gas activities can be carried out on indigenous peoples' lands after obtaining approval from indigenous peoples. The agreement of the indigenous peoples is done in the form of a deliberation and consensus settlement to obtain a decision on how to buy, trade, exchange, appropriate compensation, recognition or other forms of compensation to the holders of land rights (https://www.bphn.go. id).

Unlike the Oil and Gas Law, Law No. 4 of 2009 concerning Mineral and Coal Mining (Minerba Law) does not provide specific provisions regarding indigenous peoples. In the Mining Law the regulation is more general in regard to the role and involvement of the community than in a more specific category of indigenous peoples. This shows an unsynchronization because the Oil and Gas Law and the Mining Law are both laws which form the basis of mining activities in Indonesia. Especially mineral and coal mining activities often require more land than oil and gas activities (https://www.bphn.go.id).

In the explanation of the Minerba Law it is stated that minerals and coal as natural resources contained in the earth are non-renewable natural resources, their management needs to be carried out as optimally as possible, efficient, transparent, sustainable and environmentally sound, and fair in order to obtain maximum benefits for prosperity. the people in a sustainable way. In order to create sustainable development, mining business activities must be carried out with due regard to environmental principles, transparency, and community participation (https://www.bphn.go.id).

From this provision clearly shows that the role of the community must be involved in every mining business activity. One of the provisions in Article 21 of the Minerba Law states that the regent / mayor is obliged to make public announcements about the WPR plan to the public. Community participation in involvement in mining business activities because mining business is a major activity in the middle of the community, where of course this activity will interact with the local community where the

mining location is located. Community involvement is very important because there are many aspects that need to be considered in mining activities, ranging from economic equity to taking into account environmental sustainability and the impact of these activities on local communities where mining business activities are carried out. Based on that, in Article 10 letter b of the Minerba Law it is stated that the Determination of Mining Areas is carried out in an integrated manner with due regard to community opinion. The need for community involvement in business development activities to avoid problems that will arise from the mining business activities (https://www.bphn.go.id).

Besides that also the socio-economic impact. What often happens is the emergence of socio-economic disparities between the surrounding community and people who are in the mine. These social disparities are caused by cultural and technological differences, as well as economic status. The people who are in the mining company usually come from city people with lifestyles tend to be glamorous and luxurious, the technology used is also sophisticated and modern, and the economic conditions of the mining company people usually exist at the upper middle level, because salaries in mining is classified as large (https://www.bphn.go.id).

Article 134 of the Mining Law states that mining business activities cannot be carried out in places that are prohibited from conducting mining business activities in accordance with statutory provisions. This provision is similar to the provisions regarding the prohibition of using certain land for oil and gas activities in the Oil and Gas Law. However, the difference in the provisions in the Minerba Law does not specify restrictions on the particular place in question, but rather refers to legislation. This becomes even more obscure because it does not know the provisions of the statutory regulations where the intended prohibition must be based.

Conclusion

The control, management and utilization of land has been mandated in Article 33 paragraph (3) of the 1945 Constitution. The control of land is intended to manage and utilize land for the people's welfare. The principle of state control over land has been perceived by the Constitutional Court, namely to make arrangements, management, policies, arrangements, and supervision. Arrangements by forming legislation that specifically regulates land matters. Management is carried out on the principle that the land has a social function and how the policy of land law politics. Policies are taken in order to provide facilities and benefits to the land owned by someone. Arrangement is a step taken in order to give or revoke permission to use land. Supervision is carried out to oversee land management both at the central and regional levels. In the elucidation of Article 33 paragraph (4) it is stated that: "... specifically burial sites, places that are considered sacred and land owned by indigenous peoples, prior to the

issuance of permits from the relevant government agencies need to get approval from the local community." This provision annulls the ban on the use of indigenous peoples' land for oil and gas business. In other words, oil and gas activities can be carried out on indigenous peoples' lands after obtaining approval from indigenous peoples. The agreement of the indigenous peoples is done in the form of a deliberation and consensus settlement to obtain a decision on how to buy and sell, exchange, appropriate compensation, recognition or other forms of compensation to the holders of land rights.

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