Dualism in the Implementation of Land Ownership, Use, Inventory, and Utilization in Indonesia: A Post-Mining Land Study

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***Abstract*- The objective of this study is to examine the consequences of transferring mining land from the holder of a Mining Business Permit (IUP) or Special Mining Business Permit (IUPK) to a different party through the Ministry of Energy and Mineral Resources (ESDM), as outlined in Article 99 Paragraph (4) in conjunction with Article 1 Paragraph (38) of Law Number 03 of 2020. This law pertains to the amendments made to Law Number 4 of 2009 concerning Mineral and Coal Mining, hereafter referred to as Law No. 03 of 2020. The present study constitutes normative legal research. The findings indicate that the transfer of post-mining land from IUP or IUPK holders to third parties via the Ministry of Energy and Mineral Resources, as stipulated in Article 99 of Law No. 03 of 2020, gives rise to legal ambiguity. This situation necessitates the Ministry of Energy and Mineral Resources to assume the responsibilities of the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN) in executing the Integrated Post-Mining Land Use (IP4T) program in accordance with national land legislation. Hence, it is imperative to establish a cohesive legal framework that aligns Law No. 03 of 2020 with agrarian and national land policies. This will ensure legal certainty and eliminate conflicting interpretations in the future implementation of Integrated Post-Mining Land Management (IP4T). Ultimately, this will facilitate the transfer of post-mining land from holders of Mining Business License (IUP) or Special Mining Business License (IUPK) under the Ministry of Energy and Mineral Resources to the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN), which serves as an auxiliary body responsible for land affairs within the Indonesian government system.**

Keywords- Post-mining Land; Handover; Ministry

I. INTRODUCTION

Efforts towards land law reform in Indonesia have been in existence since the inception of the UUPA. However, these efforts have not kept pace with the evolving needs of the dynamic community, resulting in a lack of tangible positive legal norms (ius constitutum). Nonetheless, land law reform is being pursued through the issuance of legislative instruments pertaining to the UUPA. Following the dissolution of the New Order regime, the People's Consultative Assembly Enacted Decree No. IX/2001, which aimed to initiate a comprehensive overhaul of the Agrarian overhaul and Natural Resource Management Act (UUPA).

Several key factors contribute to the issue of this MPR directive, which are outlined below: The agrarian resources and natural resources, such as the soil, water, space, and their contents, are considered a divine blessing bestowed upon the Indonesian nation. These resources are seen as national assets that should be acknowledged with gratitude. Hence, it is imperative to effectively manage and utilize the available resources in order to ensure equitable and prosperous outcomes for both current and future generations. Additionally, the Constitutional mandate of the MPR involves establishing the trajectory and foundation for national development, which should address prevalent issues such as poverty, inequality, socio-economic injustice, and environmental degradation. However, the existing management of agrarian and natural resources has resulted in a decline in environmental quality, disparities in control, ownership, and utilization, and the emergence of numerous conflicts. Furthermore, the legislation pertaining to resource management exhibits overlapping and contradictory provisions. The fair, sustainable, and ecologically friendly management of agrarian and natural resources necessitates a coordinated and integrated approach that takes into account the dynamics, goals, and participation of the community. Additionally, it should aim to resolve conflicts that may arise in the process. In order to actualize the noble aspirations of the Indonesian nation, as articulated in the preamble of the 1945 Constitution of the Republic of Indonesia, it is imperative to establish a firm political dedication that will serve as the foundation and guide for the implementation of agrarian reform and the equitable, sustainable, and ecologically responsible administration of natural resources.

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To ensure the actualization of these values, it is imperative that agrarian reform and natural resource management adhere to various principles, including but not limited to: 1. Upholding and safeguarding the integrity of the Unitary State of the Republic of Indonesia. 2. It is imperative to demonstrate reverence for and safeguard human rights. 3. It is crucial to exhibit deference for the rule of law by embracing the inclusion of diverse perspectives in legal harmonization. 4. Enhance the well-being of the populace, particularly by enhancing the caliber of human capital in Indonesia. The objectives include the advancement of democratic principles, adherence to legal frameworks, promotion of transparency, and enhancement of community engagement. 6. Ensuring the attainment of justice, specifically in relation to gender equality, in the management, ownership, utilization, and maintenance of agrarian and natural resources. 7. Upholding sustainability as a means to achieve maximum benefits for both current and future generations, while considering the environmental capacity and carrying capacity. The objective is to incorporate social functions, sustainability, and ecological functions into the design, taking into consideration the specific socio-cultural characteristics of the local community. One potential area for enhancement is the facilitation of integration and coordination among various development sectors and regions in the execution of agrarian resource reform and management. 10. It is imperative to acknowledge, uphold, and safeguard the rights of customary law communities and the nation's cultural religion with regard to agrarian and natural resources. 11. It is essential to pursue a harmonious equilibrium between the rights and responsibilities of the state, government entities (central, provincial, district/city, and village or equivalent), communities, and individuals. 12. The implementation of decentralization should involve the distribution of authority across national, provincial, district/city, and village or equivalent levels, specifically concerning the allocation and administration of agrarian and natural resources.

Given the significant impact on numerous individuals, it is imperative to establish a comprehensive agrarian reform policy framework. This framework should encompass several key elements, including: 1. Conducting a thorough examination of existing laws and regulations pertaining to agrarian affairs to ensure coherence and alignment across various sectors. 2. Facilitating an equitable redistribution of land tenure, ownership, use, and utilization, with particular attention to ensuring land ownership for the general populace. 3. Implementing a comprehensive and systematic approach to collecting land data, encompassing inventory and registration of land tenure, ownership, use, and utilization, to support the effective implementation of land reform initiatives. 4. Addressing existing conflicts related to agrarian resources and proactively anticipating and mitigating potential future conflicts. 5. Enhancing the capacity and effectiveness of land institutions to effectively manage and govern agrarian resources. The objectives of the proposed measures are as follows: 1. Address and resolve conflicts pertaining to agrarian resources, while also proactively anticipating the emergence of potential conflicts. 2. Enhance the effectiveness and capabilities of institutions and authorities involved in implementing agrarian reform, with the aim of effectively resolving conflicts related to agrarian resources. 3. Make diligent efforts to secure adequate funding for the successful implementation of the agrarian reform programme.

The aforementioned provisions pertain to the legal aspects of agrarian reform, which have been regarded as national ideals since the inception of independence. Furthermore, these provisions serve as the legal foundation that obligates the government to carry out activities related to the Inventory of Land Tenure, Ownership, Use, and Utilization (hereinafter referred to as IP4T). The Inventory of Tenure, Ownership, Use and Utilisation of Land (IP4T) is a requirement outlined in TAP MPR IX/2001 on Agrarian Reform and Natural Resource Management. This mandate, specifically stated in Article 6 paragraph 1 c, emphasizes the need to conduct a comprehensive and systematic inventory and registration of tenure, ownership, use, and utilisation of land. The purpose of this inventory is to gather land data in order to formulate the Policy Direction of Agrarian Reform and facilitate the implementation of land reform. Furthermore, the inclusion of IP4T activities in the National Priority activities is aimed at providing support for agrarian reform, hence necessitating the successful implementation of IP4T activities.

The IP4T operations are a component of the strategies employed to accomplish Goal V of the Nawa Cita Vision and Mission of the Jokowi-JK Government, which pertains to the realization of a comprehensive agricultural reform encompassing 9 million hectares of land for the benefit of peasants and farm laborers. Furthermore, IP4T activities have been incorporated into the National Priority activities with the aim of providing support for agrarian reform. It is imperative that the successful implementation of IP4T activities is ensured in order to achieve this objective. The IP4T operations are a component of the strategies employed to accomplish Goal V of the Nawa Cita Vision and Mission of the Jokowi-JK Government. This goal entails the implementation of agricultural reform measures, specifically targeting the allocation of 9 million hectares of land for the benefit of peasants and farm workers.

The Land Structuring Division/Section is responsible for executing the IP4T activities in the various regions. The IP4T activity entails doing a comprehensive assessment of P4T within a specific village, employing a

participatory mapping approach. In this particular instance, participatory mapping refers to an active mapping endeavor that engages the community in the collection of P4T data. The outcomes of IP4T endeavors encompass valuable data for the purpose of strategizing land-based initiatives and developing technological guidelines. In order to enhance comprehension and application, presented below are several definitions pertaining to IP4T activities, specifically: 1. According to Government Regulation No. 24/1997, a land parcel refers to a distinct and finite portion of the earth's surface; 2. Land tenure is a legally binding association between an individual, a collective of individuals, or a legal body and a piece of land, as defined in Law No. 5 of 1960 (GR No. 16 of 2004). 3. Land ownership refers to the legal association established between individuals, collectives of individuals, or legal entities who possess evidence of ownership, which can be in the form of registered documents such as land rights certificates or unregistered documentation; 4. Land use refers to the utilization and allocation of the Earth's surface, encompassing both naturally occurring and human-created formations, as defined by Government Regulation No. 16/2004; 5. Land utilization refers to the process of acquiring additional value from land use without altering its physical shape, as defined by Government Regulation No. 16/2004; 6. The Land Parcel Sketch refers to the physical representation of a land parcel in the field, typically depicting its general border. It is accompanied by a geographic reference, which is typically at least 1 TDT (Topographic Data Table).

The execution of IP4T operations involves the utilization of an android-based application known as Smart PTSL. The Smart PTSL application is a mobile Geographic Information System (GIS) application designed specifically for android devices. It offers a range of capabilities that have been customized to cater to the requirements of IP4T and PTSL. The Smart PTSL application serves as a platform for the dissemination of measurement data obtained from many sources, including meet bands, Aerial Photo Interpretation, and external GNSS connectivity. It is important to note that the program itself does not function as a measuring tool, but rather facilitates the transmission and presentation of numerical measurements. The Smart PTSL application encompasses various features, one of which is the capability to do distance correction on satellite image delineation findings as well as UAV and drone photographs. The process involves the amalgamation of physical and legal information, including the incorporation of supporting data such as Base Map (obtained through the use of UAV/Drone and CSRT technologies), spatial data of land parcels in the form of shapefile (shp) for use as a working map, textual data pertaining to land parcels (including details on subject, object, control, ownership, legal relationship, list of entries, and statement of physical control), as well as external GNSS data. Additionally, geotagging photos of subjects and objects is conducted, and the final step entails exporting measuring images and maps of measurement results in shapefile format. The oversight of these IP4T initiatives is within the jurisdiction of the Ministry of ATR/BPN.

However, the topic becomes intriguing when discussing the terrestrial or terrestrial realm of the erstwhile mining sector. According to Law No. 03 of 2020, which amends Law No. 4 of 2009 on Mineral and Coal Mining, Article 99 Paragraph (4) stipulates that mining companies with Mining Business Licences or Special Mining Business Licences (IUP/IUPK) are required to transfer ex-mining land that has been reclaimed to the appropriate party under the supervision of the Minister, in adherence to the stipulations outlined in legal statutes and regulatory frameworks.

In accordance with the stipulations outlined in Article 99, Paragraph (4) in conjunction with Article 1, Paragraph (38) of Law No. 03 of 2020, the Minister of Energy and Mineral Resources (ESDM) assumes the responsibility of executing the Implementation of Inventory, Tenure, Ownership, Use and Utilisation of Land (IP4T). This development has resulted in a duality in the implementation of IP4T within the national land system, specifically between the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN) and the Ministry of Energy and Mineral Resources (ESDM). Consequently, this situation has led to legal uncertainty and, potentially, the future validity and legality of the post-mining land transfer conducted by the Ministry of Energy and Mineral Resources (ESDM) may be subject to questioning. Hence, it is imperative to critically reassess the jurisdiction pertaining to the implementation of post-mining land transfer as stipulated in the Mineral and Coal Mining Law, as well as the role of the Ministry of ATR / BPN as the governing body responsible for land matters. This examination aims to ascertain the implications of such regulations, which facilitate the transfer of post-mining land from IUP / IUPK holders to third parties through the Ministry of ATR / BPN.

II. LITERATURE REVIEW

A. Land Ownership

Land ownership is regulated by the state through Law Number 5 of 1960 concerning Basic Agrarian Principles or often abbreviated as UUPA. One of the land rights is the right of ownership. Hak milik is the hereditary, strongest, and fullest right that people can have over land. This property right can be transferred or assigned to other parties.

Property rights can only be owned by Indonesian citizens (WNI). Foreigners and Indonesian citizens who have lost their citizenship must relinquish the right within one year of acquiring the right or losing their citizenship. Otherwise, the right is nullified by law and the land goes to the state. However, the rights of other parties encumbering it continue.

Apart from these two reasons, a property right can be extinguished if the land falls to the state. The fall of land to the state can be due to voluntary surrender by the owner, abandonment, revocation due to public interest, and sale, exchange, donation, gift by will, and other acts used to transfer the property right.

Ownership of land occurs in accordance with government regulations and statutory provisions. A hak milik can be used as collateral for debt by encumbering it with a mortgage. The right of ownership can be transferred by sale, exchange, donation, gift by will, gift according to custom, and other acts intended to transfer the right of ownership. Hak milik is the strongest and most fulfilling right that a person can have over land.

The highest land tenure is owned by the state as the organization of the power of all the people. Land tenure pays attention to Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which emphasizes that the earth, water and airspace, including the wealth therein, are at the highest level controlled by the state. Land tenure with state control rights gives the state the authority to regulate and organize allotment, supply, use and maintenance. The state is also authorized to determine and regulate legal relations between people and the earth, water and space. The state is also authorized to determine and regulate legal relations between people and legal acts concerning the earth, water and space.

Based on the state's control rights, various kinds of rights over the earth's surface emerge that can be granted to and can also be owned by people, both individually and collectively as well as legal entities. State control over land is ideally used to achieve the greatest prosperity of the people. In exercising this right, it can be authorized to Swantatra regions and customary law communities as long as it does not conflict with the national interest.

B. Land Use

The use of land must be adjusted to the circumstances and nature of its rights, so that it is able to benefit the welfare and benefit the community and the state. The use of land not by the owner is an example of leasing, profit sharing, pawning, and so on. This is done by agreement to prevent oppressive legal relations.

There is a right called the right of use. The right of use is the right to use or collect products from land directly controlled by the state or owned by others. This right is specified in the decree granting it in an agreement with the landowner. This right of use does not include a lease agreement or land management agreement. The right of use is granted for a certain period of time as long as the land is used for a purpose. In fact, the right of use can also be granted free of charge with payment or provision of any services. The use of land can also be carried out not by the owner, but is limited and regulated by legislation.

According to Article 42 of the UUPA, the parties who can have the right of use are Indonesian citizens, foreigners domiciled in Indonesia, legal entities established in accordance with Indonesian law and domiciled in Indonesia, and foreign legal entities that have representatives in Indonesia.

In addition, there are eigendom rights belonging to foreign governments that are used for the purposes of the residence of the Chief Representative and the embassy building. The right becomes a right of use that lasts as long as the land is used for this purpose.

C. Post-Mining Land

In the framework of socialism, the government has a plan regarding the supply, allocation and use of the earth, water, and space and the natural resources therein for various purposes. These affairs are for state purposes; worship purposes; the center of community life, social, cultural and others; the development of agricultural production, farming, and fisheries; and for the purposes of developing industry, transmigration, and mining. Regarding mining,

this is related to the state's right to control the extraction of natural resources contained in the earth, water and space. This is important because industry and mining play an important role in the country's economy.

According to Law No. 3/2020 on Amendments to Law No. 4/2009 on Mineral and Coal Mining (Law No. 3/2020), post-mining activities are activities aimed at restoring environmental and social functions in mining areas. In relation to the land, the government is authorized to provide guidance and supervision on reclamation and post-mining. Reclamation is an activity to organize, restore, and improve the quality of the environment and ecosystem so that it functions again according to its designation. The implementation of reclamation and post-mining is carried out according to the designation of the land.

Mining, such as coal, is the activity of extracting coal from underground. Land use after the mining process must be well planned. [1] Land damage caused by mining must be restored by reclamation. This is also to maximize the benefits that will arise from reclamation results. This is because ex-mining land also has the potential for economic development and social benefits for the community.[2]

III. METHOD

This study employs a normative legal research approach, focusing on the concept of "positive legal norms within the legislative system."[3] This study has substantiated that the methodology employed in this legal research is a combination of a statute approach and a conceptual approach.[4] The research methodology employed in this study involves the utilization of document analysis as a data collection tool. [5] Document studies are a research method employed to gather secondary data from a variety of sources, such as legal frameworks, international treaties, scholarly publications, articles, reports, and other pertinent documents that pertain to the subject matter being investigated. [6] The legal framework utilized in this study encompasses Law Number 3 of 2020, which pertains to the modifications made to Law Number 4 of 2009 regarding Mineral and Coal Mining. Additionally, Government Regulation of the Republic of Indonesia Number 78 of 2010, which addresses reclamation and post-mining activities, is also considered. Furthermore, the national land law policy is taken into account as well. This investigation aims to examine the incongruity that arises from the interplay between mining regulations and legislative requirements pertaining to land, particularly in relation to national land policy.

IV. RESULT AND DISCUSSION

When making reference to Article 99 of Law No. 3 of 2020, which pertains to the amendments made to Law No. 4 of 2009 on Mineral and Coal Mining, hereinafter referred to as Law No. 3 of 2020, it is stated that: 1. IUP or IUPK holders shall prepare and submit a Reclamation plan and/or Post-mining plan; 2. Reclamation and post-mining implementation is carried out in accordance with post-mining land designation; 3. In the implementation of Reclamation carried out throughout the stages of the Mining Business, holders of IUP or IUPK shall: a. fulfil the balance between the land to be cleared and the land that has been reclaimed; and b. carry out the management of the final ex-mining pit with the most extensive limit in accordance with the provisions of laws and regulations; 4. IUP or IUPK holders are obliged to hand over land that has been reclaimed and/or post-mined to the rightful party through the Minister in accordance with the provisions of laws and regulations.

The provisions outlined in Article 99 of Law No. 03/2020, which serve as the foundation for determining the status of post-mining land, exhibit deficiencies concerning the position of post-mining land. It is worth noting that no statutory provisions have been identified that address the mechanism for transferring post-mining land. The norms within these provisions solely entail instructing holders of IUP or IUPK to surrender post-mining land to the entitled party, facilitated by the Ministry of Energy and Mineral Resources (ESDM) in this particular instance.

Upon further examination of the restrictions outlined in Article 47 of Government Regulation of the Republic of Indonesia Number 78 of 2010 pertaining to Reclamation and Post-mining, it becomes evident that: 1. The holders of IUP and IUPK are obligated to transfer the reclaimed land to the rightful party in accordance with the regulations stipulated by the Minister, Governor, or Regent/Mayor, as per their respective authorities; 2. The holders of IUP and IUPK have the option to submit a request for a postponement of land surrender, either partially or entirely, to the Minister, Governor, or Regent/Mayor, in accordance with their respective authorities, if the reclaimed land is still required for mining purposes.

According to Article 48 of Government Regulation of the Republic of Indonesia Number 78 of 2010 regarding Reclamation and Post-mining, it is evident that: Individuals who possess Production Operation IUP and Production Operation IUPK licenses and have successfully concluded post-mining activities are required to transfer post-mining land to the appropriate entities, as stipulated by legal provisions, with the involvement of the Minister, governor, or regent/mayor, in accordance with their respective jurisdictions.

According to Article 49 of Government Regulation of the Republic of Indonesia Number 78 of 2010, which pertains to the subject of Reclamation and Post-mining, it is evident that: "Further provisions regarding the procedures for handing over land that has been reclaimed and land that has been post-mining are regulated by Ministerial Regulation".

According to the stipulations outlined in Presidential Regulation No. 78/2010, it is evident that the transfer process of land resulting from post-mining reclamation is contingent upon a ministerial regulation. Upon closer examination, it becomes apparent that the relevant minister responsible for this matter is the Ministry of Energy and Mineral Resources (ESDM). However, to date, there has been a lack of derivative regulation in the form of a ministerial regulation, as mandated by Presidential Regulation No. 78/2010. Consequently, this absence has created a legal void within the national legal system pertaining to the regulation of state land resulting from reclamation and post-mining activities. It is crucial to provide further elaboration on this matter, given the potential controversies that may arise in the future if the absence of legislative regulations persists, particularly in relation to reclamation and post-mining sites falling under a wide scope.

Nevertheless, the issue extends beyond the absence of legal regulations. It pertains to the explicit provision outlined in Law No. 03 of 2020, which mandates that holders of IUP/IUPK relinquish post-mining land to the appropriate entities through the Minister of Energy and Mineral Resources. It is worth noting that the aforementioned ministry does not possess jurisdiction over land matters. The implementation of Law No. 03 of 2020, which designates the Minister of Energy and Mineral Resources as the responsible entity for transferring post-mining land from IUP/IUPK holders to rightful parties, may introduce legal ambiguity in the future. This provision's authority could potentially be subject to scrutiny, with potential consequences that should not be underestimated. If the Minister of Energy and Mineral Resources transfers land to the community and its validity is later called into question, this could adversely affect the community as the recipient of post-mining land from the Minister of Energy and Mineral Resources.

In the context of authority and the role of the ATR/BPN ministry in Indonesia, it is arguable that post-mining land should be incorporated within the purview of this ministry. This would position it as an auxiliary entity to the president, responsible for land management and the execution of the IP4T function. Nevertheless, the aforementioned case ultimately introduces a novel domain wherein land matters are vested with the Ministry of Energy and Mineral Resources. Ideally, this authority should be specifically delegated to the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN), which is responsible for land affairs. In other words, the transfer of post-mining land from IUP/IUPK holders to third parties should be facilitated through the Ministry of ATR/BPN.

Etymologically, the term "harmonisation" pertains to the process through which individuals strive to establish or achieve a cohesive system of harmony. The term "harmony" encompasses various connotations, including the notions of harmony itself, suitability, compatibility, and a state of joyous balance. In psychological discourse, the concept of harmonization is defined as the state of equilibrium and congruence across various dimensions of individuals' affective, cognitive, and behavioral domains, hence mitigating the presence of excessive criticality. [7] Stammler posits that a just law seeks to establish a state of equilibrium between the objectives of individuals and those of society. The concepts of justice in law involve the alignment of the individual's will, direction, and interests with those of the public. The components of the will, direction, and interests can be categorized into two main aspects: mutual respect and involvement.[8]

According to J. (last name not provided), According to M. Sinclair (1991), the Collins Cobuild Dictionary provides definitions for the terms "harmonious" and "harmonise". A relationship, agreement etc. that is harmonious is friendly and peaceful. Things which are harmonious have parts which make up an attractive whole and which are in proper proportion to each other When people harmonize, they agree about issues or subjects in a friendly, peaceful ways; suitable, reconcile. If you harmonize two or morw things, they fit in with each other is part of a system, society etc”.

In "Legal Harmonisation Towards Responsive Law," L.M. Gandhi discusses the concept of harmonisation in law, as quoted from the book "Tussen Eenheid En Verscheidenheid: Opstellen Over Harmonisatie Instaaat En Bestuurecht." The author explains that harmonisation entails the synchronization of laws and regulations, governmental decisions, judicial rulings, legal systems, and legal principles. The ultimate objective is to enhance legal uniformity, legal certainty, justice, equality, legal expediency, and transparency. It is important to note that this pursuit of harmonisation should not undermine or eradicate legal pluralism, except in cases where it is deemed necessary.[9]

According to Moh. Hasan Wargakusumah, legal harmonisation is a scholarly endeavor that entails a systematic process of achieving written harmonisation, with the objective of including philosophical, social, economic, and juridical principles. [10] The lack of harmonization within the legal system may result in a state of uncertain legal certainty, potentially leading to disruptions in social order, disorder, and a perception of inadequate protection. From this standpoint, the attainment of legal certainty is regarded as an essential requirement that can solely be achieved through the harmonization of the legal framework.[11]

Legal harmonization is a procedural mechanism aimed at achieving consistency and coherence in the implementation and enforcement of laws and regulations. Its purpose is to address disparities, contradictions, and inconsistencies that may arise within legal frameworks, either between different sets of regulations or between laws and regulations within a certain legal system.[12] The process of legal harmonisation aims to provide a cohesive legal framework. This implies the establishment of a legal framework that embodies qualities of harmony, balance, integration, and consistency both in its creation and implementation. Therefore, the attainment of human benefit through the implementation of law can be readily accomplished. Based on the preceding sub-discussion, it is imperative to establish coherence between Law No. 03 of 2020 and agrarian and national land policies. This is essential to ensure legal certainty and eradicate the existence of dualism in the future implementation of Integrated Post-Mining Land Management (IP4T). The ultimate objective is to facilitate the transfer of post-mining land from holders of Mining Business License (IUP) or Special Mining Business License (IUPK) under the Ministry of Energy and Mineral Resources to the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN). This transfer would be carried out under the auspices of the presidential assistant responsible for land affairs within the Indonesian governmental framework.

V. CONCLUSION

According to the author's research, it has been established that the transfer of post-mining land from IUP or IUPK holders to third parties via the Ministry of Energy and Mineral Resources, as outlined in Article 99 of Law No. 03 of 2020, introduces legal ambiguity. This situation necessitates the Ministry of Energy and Mineral Resources to assume the responsibilities of the Ministry of Agrarian and Spatial Planning/National Land Agency in executing the Integrated Post-Mining Land Management (IP4T) in accordance with the prevailing national land legislation. Hence, it is imperative to establish a cohesive legal framework that aligns Law No. 03 of 2020 with agrarian and national land policies. This will ensure legal certainty and eliminate conflicting interpretations in the implementation of the Integrated Post-Mining Land Management (IP4T) on post-mining land in the future. Ultimately, this will facilitate the transfer of post-mining land from the holders of Mining Business Permits (IUP) or Special Mining Business Permits (IUPK) under the Ministry of Energy and Mineral Resources to the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN), which serves as an auxiliary body responsible for land affairs within the Indonesian government system.

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