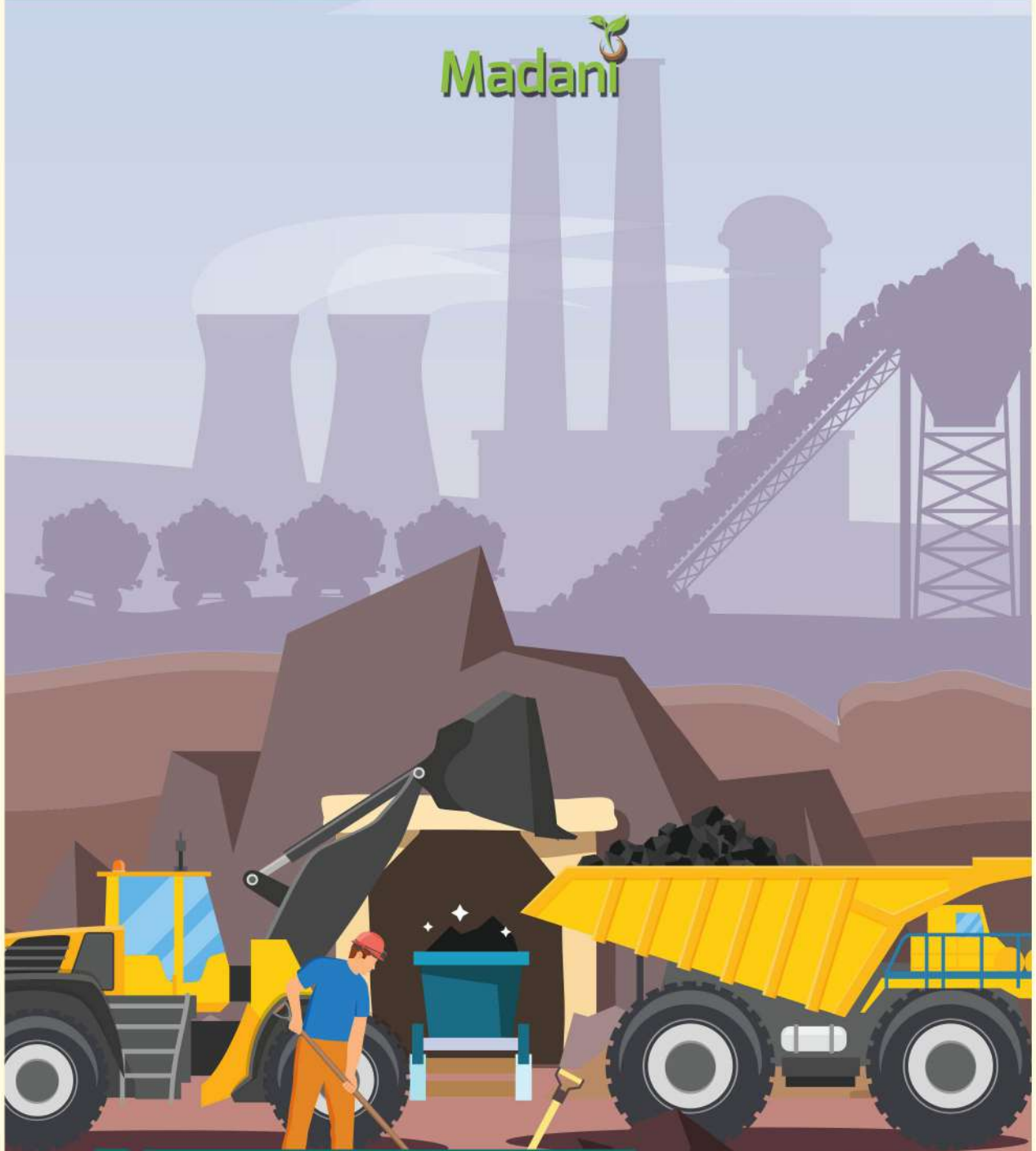




Madani



**MADANI'S UPDATE**

**SVLK, JOB CREATION BILL,  
AND REVISION OF MINERAL  
AND COAL LAW**

**APRIL - MAY 2020**



# Madani's Update

Updates on policies relating to forest, peatland, palm oil, and climate change in Indonesia

*SVLK, Job Creation Bill, and Revision of Mineral and Coal Law*

**April - May 2020**

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## Regulation that Undermined Timber Legality Verification System (SVLK) Revoked

On May, 11, through Regulation No. 45 Year 2020, the Minister of Trade revoked the controversial [Regulation No. 15 Year 2020 on Export Requirements for Forestry Industry Products](#) that had removed the obligation to attach V-Legal, a document resulting from the Timber Legality Verification System (SVLK), for export of certain Indonesian timber products.

Cited as a measure to boost Indonesia's export amidst economic slowdown due to COVID-19 pandemic, the previous regulation would have taken effect on May 27 2020 but is now countermanded. It means that all exports of forestry products still have to attach a V-Legal document.

The previous regulation was heavily criticized by civil society organizations as well as academicians concerned that the regulation would undermine the Timber Legality Verification System (SVLK) process in Indonesia and eventually result in more rampant illegal logging, which would destroy the country's vast tropical rainforests.

A coalition of Indonesian civil society organizations<sup>1</sup> sent an [open letter](#) to the President demanding a revocation of such regulation on the grounds that it is in contradiction with Law No. 18/2013 to prevent and eradicate forest destruction as well as Regulation of Minister of Environment and Forestry No. 30/2016, which mandates V-Legal as one of the requirements for export of Indonesian timber products. The regulation was also perceived as violating Indonesia's Voluntary Partnership Agreement with the European Union aimed to ensure that only legal Indonesian timber and timber products enter the EU (FLEGT-VPA).<sup>2</sup> According to FLEGT-VPA, Indonesia shall also apply the Timber Legality Verification System for timber products exported to non-EU countries as well as those used domestically.<sup>3</sup>

CSOs are of the view that the economic justifications cited by the government to remove V-Legal obligation are erroneous. According to Syahrul Fitra, researcher from Yayasan Auriga Nusantara, the Timber Legality Verification System has increased the value of Indonesia's timber export rather than hindering it.<sup>4</sup> Since 2013, SVLK has contributed USD 68.37 billion

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<sup>1</sup> Independent Forestry Monitoring Network (JPIK), Indonesian Center for Environmental Law (ICEL), Auriga, Kaoem Telapak, Forest Watch Indonesia, and Independent Forest Monitoring Fund (IFM Fund).

<sup>2</sup> Forest Law Enforcement and Governance – Voluntary Partnership Agreement

<sup>3</sup> Independent Forestry Monitoring Network (JPIK), Indonesian Center for Environmental Law (ICEL), Auriga, Kaoem Telapak, Forest Watch Indonesia, and Independent Forest Monitoring Fund (IFM Fund), "Surat Terbuka Koalisi Masyarakat Sipil Indonesia keon Presiden Republik Indonesia untuk Pencabutan atau Revisi Peraturan Menteri Perdagangan Nomor 15 Tahun 2020 tentang Ketentuan Ekspor Produksi Industri Kehutanan," 20 March 2020 accessed from <http://fwi.or.id/publikasi/surat-terbuka-keon-presiden-cabut-atau-revisi-peraturan-menteri-perdagangan-nomor-15-tahun-2020/> on May 6, 2020.

<sup>4</sup> Arumingtyas, Lusiana, Nugraha, Indra. 2020. *Aturan Ekspor Kayu Tanpa Verifikasi Legal Ancam Tata Kelola Hutan*. Downloaded from <https://www.mongabay.co.id/2020/03/26/aturan-ekspor-kayu-tanpa-verifikasi-legal-ancam-tata-kelola-hutan/> on 9 April 2020

in timber products export value. In 2019 alone, the total export value of Indonesian timber furniture reached USD 1.4 billion, USD 1.2 billion of which comes from countries that demand legality assurance.<sup>5</sup>

Not everyone is happy with the revocation. The furniture industry still views SVLK as an unnecessary burden. According to Sunoto, Head of Furniture and Craft Industry (HIMKI), SVLK should only apply to upstream forestry businesses such as timber plantation or logging, while downstream businesses should be exempt because it would add to the red tape.<sup>6</sup>

Albeit happy with the revocation, civil society is still concerned with other attempts to undermine prevention of illegal logging in Indonesia. One example is a regulation that would expand the category of timber allowed to be exported to include woods with a surface that reaches 15 thousand millimeter and large blocks of saw dust. According to the Independent Forestry Monitoring Network (JPIK), the maximum size of exported wood should only be 10 thousand millimeter.<sup>7</sup>

Another concern is the ongoing revision of Minister of Environment and Forestry Regulation No. 30/2016 on Performance Assessment of Sustainable Production Forest Management (PHPL) and Timber Legality Verification (SLK) for the holders of Management Right and Private Forests, which process is deemed secretive.<sup>8</sup>

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<sup>5</sup> Susanto, Ichwan. 2020. *Desak Permendag Dicabut, Koalisi Masyarakat Sipil Surati Presiden*. Downloaded from <https://kompas.id/baca/humaniora/2020/03/20/desak-permendag-dicabut-koalisi-masyarakat-sipil-surati-presiden/> on 9 April 2020

<sup>6</sup> Wardoyo, Savira. 2020. *Pak Jokowi! Aturan Legalitas Kayu Bikin Pengusaha Mebel Marah*. Downloaded from <https://www.cnbcindonesia.com/news/20200513145438-4-158200/pak-jokowi-aturan-legalitas-kayu-bikin-pengusaha-mebel-marah> on 14 May 2020

<sup>7</sup> *Ibid*

<sup>8</sup> *Ibid*

## Omnibus Law/Job Creation Bill Discussion Continues

The Parliament will continue discussing one of the most controversial legislations in Indonesia, the Omnibus Law/Job Creation Bill<sup>9</sup> despite heavy criticisms from labour organizations, academicians, and non-governmental organizations due to the Bill's focus on boosting investment at the expense of labours and the environment, including forests. Civil society organizations such as the Advocacy Network of Center of Indonesian Law and Policy Study (PSHK)<sup>10</sup> and Indonesian Legal Aid Foundation (YLBHI)<sup>11</sup> have urged the Parliament to suspend the Bill's discussion due to COVID-19 pandemic that hinders effective public participation.

The Bill will continue to be discussed in the next (4<sup>th</sup>) session of the Parliament as it has entered recess on May 12<sup>th</sup> until mid-June 2020.<sup>12</sup> Before the recess, the Parliament had had three General Hearings with economic researchers, business sector, state administration legal experts, and government experts, but not civil society.

### Dynamics in the Parliament

The Head of Legislation Body (Baleg), Supratman Andi Atgas - also the Head of Working Committee on Job Creation Bill – has stressed that they will continue the Bill discussion albeit with no time target due to COVID-19 pandemic.<sup>13</sup>

There is some resistance from the Parliament members themselves. Ribka Tjiptaning, Member of Commission IX from PDIP Fraction - the ruling party - has publicly expressed concern of the Parliament's decision to continue the Bill discussion amidst COVID-19 pandemic, accusing the Parliament of having lost its sensitivity and even using the situation to their advantage.<sup>14</sup> The urge to stop the Bill discussion also came from Partai Amanat Nasional (PAN), an opposition fraction whose members also sit in the Working Committee.<sup>15</sup>

<sup>9</sup> Media Indonesia. 2020. *DPR Tegaskan Tidak Ada Penundaan Omnibus Law RUU Cipta Kerja*. Downloaded from <https://mediaindonesia.com/read/detail/310163-dpr-tegaskan-tidak-ada-penundaan-omnibus-law-ruu-cipta-kerja> on 6 May 2020

<sup>10</sup> Maharani, Tsarina. 2020. *Pembahasan Omnibus Law RUU Cipta Kerja di Tengah Wabah Virus Corona*. Downloaded from <https://nasional.kompas.com/read/2020/03/31/06333251/pembahasan-omnibus-law-ruu-cipta-kerja-di-tengah-wabah-virus-corona?page=all#page3> on 14 April 2020

<sup>11</sup> *Ibid*

<sup>12</sup> Kustiasih, Rini. 2020. *DPR Akan Reses, Pembahasan RUU Cipta Kerja Dilanjutkan on Masa Sidang Berikutnya*. Downloaded from <https://kompas.id/baca/polhuk/2020/05/04/dpr-akan-reses-pembahasan-ruu-cipta-kerja-dilanjutkan-on-masa-sidang-berikutnya/> on 11 May 2020

<sup>13</sup> Kompas.com. 2020. *Siap Gelar Raker Omnibus Law Ciptaker, DPR Siap Tampung Aspirasi Rakyat*. Downloaded from <https://nasional.kompas.com/read/2020/04/08/18505151/siap-gelar-raker-omnibus-law-ciptaker-dpr-siap-tampung-aspirasi-rakyat> on 14 April 2020

<sup>14</sup> Nugroho, Arif Satrio. 2020. *Politikus PDIP Sebut DPR Tak Peka Tetap Bahas Omnibus Law*. Downloaded from <https://republika.co.id/berita/q8nulr428/politikus-pdip-sebut-dpr-tak-peka-tetap-bahas-omnibus-law> on 14 April 2020

<sup>15</sup> Adiyudha, Rizkyan. 2020. *Fraksi PAN: Dahulukan Atasi Covid-19 Dibanding Omnibus Law*. Downloaded from <https://republika.co.id/berita/q87lw1354/fraksi-pan-dahulukan-atasi-covid19-dibanding-omnibus-law> on 14 April 2020

Previously, Partai Demokrat had withdrawn its members from the Working Committee to focus on COVID-19 handling while Partai Keadilan Sejahtera had since the beginning refused to participate in the Committee.<sup>16</sup> However, six of the seven fractions in Working Committee: NasDem, Partai Kebangkitan Bangsa, PDIP, PPP, Partai Golkar, and Gerindra, have all agreed to continue discussing the Bill.

With Partai Demokrat Fraction out, there are currently seven fractions involved in the Working Committee on Job Creation Bill (see Table below).

No	Fraction	Member Names	Position in the Committee
1	Gerindra	Supratman Andi Atgas	Head
		Heri Gunawan	Member
		Obon Tabroni	Member
		Hendrik Lewerissa	Member
		Darori Wonodipuro	Member
		Sodik Mujahid	Member
2	PDIP	Rieke Diah Pitaloka	Deputy Head
		Sturman Panjaitan	Member
		Irmadi Lubis	Member
		Ichsan Soelistio	Member
		Arteria Dahlan	Member
		Hendrawan Supratikno	Member
		Diah Pitaloka	Member
		My Esti Wijayati	Member
		Andreas Eddy Susetyo	Member
3	Nasdem	Willy Aditya	Deputy Head
		Taufik Basari	Member
		Saan Mustofa	Member

<sup>16</sup> Puspa Sari, Haryanti. 2020. *Fraksi Partai Demokrat Tarik Anggotanya dari Panja RUU Cipta Kerja*. Downloaded from <https://nasional.kompas.com/read/2020/04/22/13334791/fraksi-partai-demokrat-tarik-anggotanya-dari-panja-ruu-cipta-kerja> on 11 May 2020

		Fauzi Amro	Member
4	PKB	Ibnu Multazam	Deputy Head
		Mohammad Toha	Member
		Ela Siti Nuryamah	Member
		Sukamto	Member
5	PPP	Achmad Baidowi	Deputy Head
		Syamsurizal	Member
6	Golkar	Firman Soebagyo	Member
		Nurul Arifin	Member
		John Kenedy Azis	Member
		Supriansa	Member
		Sarmuji	Member
		Lamhot Sinaga	Member
7	PAN	Gusparadi Gaus	Member
		Ali Taher	Member
		Nasril Baher	Member

**Source:** from various sources (processed)

### Reactions from Human Rights Commission and Ombudsman

The National Human Rights Commission has made a statement that the discussion of the Job Creation Bill amidst COVID-19 has the potential to undermine efforts to fulfill, protect, and enforce human rights.<sup>17</sup> Similarly, Indonesian Ombudsman also criticized the Parliament for continuing the Bill discussion, citing such insistence unethical because the Bill has the potential to impact many lives of Indonesians.<sup>18</sup>

<sup>17</sup> Saubani, Andri. 2020. *Komnas HAM Minta DPR Tunda Pembahasan Omnibus Law*. Downloaded from <https://republika.co.id/berita/q8h8b3409/komnas-ham-minta-dpr-tunda-pembahasan-emomnibus-lawem> on 14 April 2020

<sup>18</sup> Jawa Pos. 2020. *Ombudsman Kritik DPR yang Tetap Bahas RUU Cipta Kerja*. Downloaded from <https://www.jawapos.com/nasional/politik/14/04/2020/ombudsman-kritik-dpr-yang-tetap-bahas-ruu-cipta-kerja/> on 14 April 2020



## Reactions from the Academia

92 academicians from several universities have signed a petition to reject the Bill, urging the government to stop the Bill discussion.<sup>19</sup> According to them, the Bill's development has violated the principle of disclosure guaranteed by Law No. 12/2011 on Development of Laws and Regulations.<sup>20</sup> Andri Wibisana, Lecturer at Faculty of Law, University of Indonesia, stated that the Bill will threaten the environment due to removal of administrative license and penal sanctions in the environment sector.<sup>21</sup>

## Civil Society's Lawsuit against Presidential Letter on Job Creation Bill

A civil society coalition under the banner of Advocacy for Democracy Team – consisting of Indonesian Legal Aid, Indonesian Labour Union Confederation (KPBI), Consortium for Agrarian Reform (KPA), and Mining Advocacy Network (JATAM) - has filed a lawsuit against the Presidential Letter on Job Creation Bill issued by the President<sup>22</sup> based on the following reasons:<sup>23</sup>

1. The Bill development ignored procedure in Law No. 12/2011 on Development of Laws and Regulations;
2. The substance of the Bill is in contradiction with many laws and regulations, including several Constitutional Court decisions;
3. The Bill is heavily in favour of investment at the expense of the people and the environment;
4. The Bill reflects political corruption and bad practice in legislation making that is based on a pattern also manifested in formulation of other policies/regulations;
5. The Bill violates the principle of rule of law.

Various civil society organizations working on environmental issues (forestry, agriculture, ocean), human rights, and labor rights have also expressed criticisms of the Bill with various emphasis. Madani has published a [study](#) regarding the risks the Bill poses to the achievement of Indonesia's climate commitment, especially from reduction of deforestation.

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<sup>19</sup> Maharani, Tsarina. 2020. *92 Akademisi Teken Petisi Tolak Omnibus Law RUU Cipta Kerja*. Downloaded from <https://nasional.kompas.com/read/2020/04/22/17222001/92-akademisi-teken-petisi-tolak-omnibus-law-ruu-cipta-kerja> on 11 May 2020

<sup>20</sup> Susanto, Vendi Yhulia. 2020. *Dinilai Merugikan Hak Rakyat, 92 Akademisi Menolak RUU Cipta Kerja*. Downloaded from <https://nasional.kontan.co.id/news/dinilai-merugikan-hak-rakyat-92-akademisi-menolak-ruu-cipta-kerja> on 14 May 2020

<sup>21</sup> Saputro, Febrianto Adi. 2020. *Sebanyak 92 Akademisi Tolak Omnibus Law RUU Ciptaker*. Downloaded from <https://republika.co.id/berita/q9770g354/sebanyak-92-akademisi-tolak-omnibus-law-ruu-ciptaker> on 14 May 2020

<sup>22</sup> Saputra, Andi. 2020. *Surpres Omnibus Law RUU Cipta Kerja Digugat ke PTUN Jakarta*. Downloaded from <https://news.detik.com/berita/d-5009282/surpres-omnibus-law-ruu-cipta-kerja-digugat-ke-ptun-jakarta> on 11 May 2020

<sup>23</sup> Firmansyah, Manda. 2020. *6 Alasan Menggugat Omnibus Law RUU Cipta Kerja ke PTUN*. Downloaded from <https://www.alinea.id/nasional/6-alasan-menggugat-omnibus-law-ruu-cipta-kerja-ke-ptun-b1ZMO9tYI> on 14 May 2020



The study found that if the Bill were enacted, which risks undermining forest protection, Indonesia would fall short of achieving the climate commitment in 2025.

## Mineral and Coal Revision Bill Signed into Law

On May 12, 2020, the Parliament (Commission VII) and the Government agreed to sign revisions of Mineral and Coal Act No. 4/2009 into law. Almost all fractions in the Parliament endorsed the Bill with the exception of Partai Demokrat that emphasized the need to focus on COVID-19 pandemic handling.

According to the Executive Director of Center of Study on Law, Energy, and Mining (Pushep), Bisman Bhaktiar, the signing of the Bill was forced and done without adequate public participation, including participation from the Regional Representative Council (DPD).<sup>24</sup> Meanwhile, a civil society coalition under the banner of Bersihkan Indonesia will file a judicial review against the newly enacted Law.<sup>25</sup>

### Problematic Articles

Aside from the lack of public participation, civil society rejects the Bill due to the following problematic articles:

No	Revision on Articles	Substance
1	Article 1 Para (13 A)	The Article pertains to a new permit called SIPB (Permit to Mine Rocks), which is deemed as a new rent-seeking opportunity
3	Article 22 Letter A and D	The Article pertains to the criteria to designate People Mining Area (WPR), opening an opportunity to conduct mining in river areas up to 100 hectares (after previously upping the maximum size to 25 hectares)
4	Article 42	In the previous Act, the mining exploration period was up to 2 years. The revised Act upped the exploration period to 3 to 7 years, enabling mineral and coal companies to control land during longer period, which is deemed as promoting land banking.

<sup>24</sup> Umah, Anisatul. 2020. *RUU Minerba Sah Jadi UU, Siapa Yang Paling Diuntungkan?* Downloaded from <https://www.cnbcindonesia.com/news/20200513075533-4-158049/ruu-minerba-sah-jadi-uu-siapa-yang-paling-diuntungkan> on 13 May 2020

<sup>25</sup> Thomas, Vincent Fabian. 2020. *Masyarakat Sipil Akan Ajukan Judicial Review UU Minerba ke MK.* Downloaded from <https://tirto.id/masyarakat-sipil-akan-ajukan-judicial-review-uu-minerba-ke-mk-fsmj> on 13 May 2020

5	Article 42 A	The Article enables extension of exploration permit for 1 year, which further promotes land banking.
6	Removal of Article 43 Para 1 and Para 2	Article 43 (1) mandated the holder of exploration permit that obtained minerals/coal to report them to the permit issuer. Article 43 (2) mandated the holder of exploration permit who wished to sell minerals/coals obtained during exploration to obtain a temporary permit for carrying and selling. Removal of these provisions would deprive the country of a source of Non-Tax State Revenue (PNPB).
7	Article 162 and 164	The two Articles increase the risk of criminalization against communities who reject mining
8	Removal of Article 165	The Article contained sanctions for parties that abuse the issuance of Mining Business Permit (IUP), People Mining Permit (IPR), and Special Mining Business Permit (IUPK). Removal of these sanctions increases the risk of corruption in Mineral and Coal sector.
9	Article 169 A	The Article promises automatic renewal during a maximum period of 10 years to become Special Mining Business Permit (IUPK) for the holders of Coal Mining Business Work Contract (PKP2B) without reduction of size and auction.
10	Article 169 B	The holder of Coal Mining Business Work Contract (PKP2B) can request a 5-year extension before their permit expires

**Source:** From various sources (processed)

According to an observer of mining and natural resources law from University of Tarumanegara, Ahmad Redi, the Mineral and Coal Bill is clearly in favour of large companies that are holding Coal Mining Business Work Contract (PKP2B) without regards for the principles of mineral and coal control by the state.<sup>26</sup> As widely known, the following 7 large companies will have their contracts (PKP2B) expired by 2025 as can be seen in the Table below.<sup>27</sup>

<sup>26</sup> Umah, Anisatul. 2020. *RUU Minerba Sah Jadi UU, Siapa Yang Paling Diuntungkan?* Downloaded from <https://www.cnbcindonesia.com/news/20200513075533-4-158049/ruu-minerba-sah-jadi-uu-siapa-yang-paling-diuntungkan> on 13 May 2020

<sup>27</sup> Petriella, Yanita. 2020. *Panja RUU Minerba Rampung Bahas 938 Masalah*. Downloaded from <https://ekonomi.bisnis.com/read/20200301/44/1207505/panja-ruu-minerba-rampung-bahas-938-masalah> on 13 May 2020.

No	Company Name	Size (Ha)	End of Contract Date
1	PT Arutmin Indonesia	57.107	1 November 2020
2	PT Kendilo Coal Indonesia	1.869	13 September 2021
3	PT Kaltim Prima Coal	84.938	31 December 2021
4	PT Multi Harapan Utama	39.972	1 October 2022
5	PT Adaro Indonesia	31.380	1 October 2022
6	PT Kideco Jaya Agung	47.500	13 March 2023
7	PT Berau Coal	108.009	26 April 2025

Source: <https://ekonomi.bisnis.com/read/20200301/44/1207505/panja-ruu-minerba-rampung-bahas-938-masalah>

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