

Abstract

The main topic of this research is focusing on maladministration in issuing mining license that implicates criminal offense. This work would systematically examine as follow; (1) philosophy-base of issuing mining license. (2) formulating norms of legal power in issuing mining license (3) legal power implicated to criminal law.

The three main points above are conducted by some approaches as follow; statute, conceptual, and case approach.

This dissertation has revealed some points as follow;

- 1) Conclusion of Legal Issue One; (a) the philosophy of issuing mining license has merely seeking for the prosperities and achieving social justice for all the people of Indonesia. It has deliberately creating the people life in order more closely to the legal power. (b) As the legal instrument, it is also preventing maladministration in governing, supervising, and controlling particularly issuing Mining License, Explorations, and Operational Production including Small-scale and Special Mining License.
- 2) Conclusion of Legal Issue Two; the legal power of Law No. 4 Year 2009 concerning Mining and Coal has harmonically accommodated the Law No. 23 Year 2014 concerning Local Administration. The both of this Laws has made a balancing legal power and at least defusing the conflict of legal power amongst the central, provinces, and regent's authority. Thus, the government was able to create the prosperities of the great of the people.
- 3) Conclusion of Legal Issue Three; because of the shifting of legal prevention has moved to the source revenue that potentially causing the abuse of power implicates a criminal offense and ought to be responsible personally.

Based on aforementioned above, it can be advised that in order to avoid a monopoly of legal power, it is necessarily required such a mechanism of share profit as mentioned on Law No. 28 Year 2008; It is properly requisite that province level must have taken a part as the balancer in order to defuse the conflict between central and local government. Therefore, it is required such a local ordinance. It is involved a socialization process of preventing and combating maladministration as mentioned in Law No. 30 Year 2014 concerning legal public administration. It is called for a strict control instrument towards the implementation of preventing maladministration as mentioned in Law No. 37 Year 2008 about Ombudsman of Republic of Indonesia and Law No. 30 Year 2014 regarding Legal Public Administration.

Keywords: Maladministration, Legal Power, and Criminal Law