



## STATUS AND LEGAL PROTECTION OF THE AMUNGME AND KAMORO INDIGENOUS COMMUNITIES IN CONTRACT RENEGOTIATION OF PT.FREEPORT INDONESIA

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### ABSTRACT

This research discusses the existence of indigenous peoples of the Amungme tribe and Kamoro tribe in the application of Law No. 4 of 2009 concerning Mineral and Coal Mining ( Minerba Law), renegotiation of contracts of work of PT. Freeport Indonesia is in connection with the Divestment of Shares , the legal position and involvement of the indigenous peoples of the Amungme and Kamoro Tribes and the economic rights of indigenous peoples affected by pt. Freepoint Indonesia. As is known that PT Freeport Indonesia is a mining company company that has a Contract of Work (KK) in the Grasberg and Ertsberg Mountains mining area which began in 1967 and will only end in 2021. Since implementation of the Minerba Law, PT. Freeport is required to dive shares to the Indonesian Government . in the process of divestment of shares , the the government has not been involved indigenous peoples who have customary rights in the mining area so that there are several problems such as conflicts in the mining area caused by the absences of arrangements regarding minerals and coal business in accordance with Pancasila and the 1945 Constitution , because the Minerba Law is only able to reach legal actions after the issuance of the Minerba Law and related matters related to KK that existed before the Minerba Law. in the other hand , the existence of KK PT. Freeport Indonesia is considered incompatible with Pancasila, namely the Fifth Precept " Social justice for All Indonesian People " and Article 33 paragraph (3) of the UUD 1945 Constitution concerning the substance of the earth , water , and natural wealth " controlled by the state " and " used to the greatest extents of people's prosperity "

**Keywords : *Renegotiation , Legal Position of Customary Society , Freeport***

### 1.INTRODUCTION

#### 1.1.BACKGROUND

PT Freeport Indonesia is company based foreign investment ( PMA ) based in Ponix , United States <sup>2</sup>. Freeport Indonesia is a business unit , the giant Trans National Corporation (TNCs)<sup>3</sup> mining , Freeport McMoRan , a company United States mines and a company mine the biggest in the world. Freeport McMoRan Alone operate mine gold and copper in various countries, such as South America (Peru, Chile ), South Africa and Asia (Indonesia, Grasberg Papua). So, Freeport McMoRan , parent Freeport Indonesia's business is giant world mines that have operations in various countries. In North America, FCX operates copper and *molybdenum mines* . FCX operates 7 *open-pit copper mines* in Morenci , Baghdad , Sierrita , Safford and Miami (in Arizona), and Chino and Tyroone in Mexico. In the 2015 financial year, the FCX mine in North America

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<sup>2</sup> Read: Freeport McMoRan Annual Report , in <https://investors.fcx.com/investors/news-releases/news-release-details/2021/Freeport-McMoRan-Publishes-Climate-Report-and-Announces-Net-Zero-Aspiration/default.aspx> , accessed the 28th, September, 2021

<sup>3</sup> TNCs are company giant that area the operation exist in various countries and very large assets . Main office they exist in developed countries , such as the United States and Europe . If they operate in developing countries like Indonesia, if occasionally There is dispute or termination contract , must involve agreement between countries and can also be decided in court International in Geneva , Read: I. Wibowo, Centeng Country , Kanisius , Yogyakarta, 2006. Chapters 2-5

confirmed sales of 2.0 billion pounds of copper from Morenci , Chino and Safford . In parts of Latin America, FCX operates two copper mines, namely in Cerro Verde, Peru which began expanding since September 2015 and in El Abra , Chile ( Chile ). Copper sales from these 2 mines in Latin America reached 871 million pounds in 2015.<sup>4</sup> On the black continent, Africa, FCX through its subsidiary Tenke Fungurume Mining SA (TFM) operates a copper and *cobalt* concession at Tenke Fungurume in the Republic of the Congo. <sup>5</sup>Copper sales from Africa in 2015 reached 467 pounds of copper and 35 million pounds *cobalt* .

FCX is also expanding its business in Indonesia. After depleting copper and gold in the Ertzberg Mountains in 1988, this mining giant operated an *open-pit mine* in Grasberg , Timika , Papua. The Grasberg mine includes the Big Gossan underground development . Furthermore, since 2016, Freeport Indonesia has started mining in an underground mine *consisting of Deep Ore Zone and Deep Mill Level Zone* . The results of copper sales from Indonesia in 2015 reached 744 million pounds. From the explanation above, it can be seen the composition of copper contributions to FCX from various business units in various countries. Copper contribution from North America to FCX is 34 percent, South America is 31 percent, Indonesia is 28 percent and Africa is 7 percent. Contributions from these various countries are directly proportional to total assets, namely 8,445 USD from North America, 11,106 USD from South America, 9,402 USD from Grasberg Indonesia and 5,079 USD from Africa. The total assets and copper contribution of each country can be seen in the following figure.

In Indonesia, Freeport Indonesia operates mine gold and copper in Grasberg, Earstberg and mines *underground* (Grasberg), district Mimika , Papua province. <sup>6</sup>Freeport is one of them company existing mine \_ known whole corners of the country and incl giant frequent mines \_ trigger controversy in the middle public both , Papua and national. With regard to the National Mining Law for the greatest prosperity of the people, according to Bagir Manan, it will realize the obligations of the state:<sup>7</sup>

1. All forms of utilization (earth and water) as well as the results obtained (natural wealth), must significantly increase the prosperity and welfare of the community;
2. Protecting and guaranteeing all the people's rights contained in or on land, water, and certain natural resources that can be produced directly or directly enjoyed by the people;
3. Prevent any action from any party that will cause the people to not have the opportunity or will lose their rights to enjoy natural wealth.

In Papua itself , since beginning company This operate Already trigger protest and p o limik not ended until now . The biggest polemic is between two tribes around the Freeport , Amungme and Kamoro mining areas . Discussion in dissertation This is special question position two- tribe law big This in context renegotiation Free port contract . The fact that must be recognized early on is that the Freeport concession area is the customary territory of the Amungme people . In the past, in the midst of this society, there was a mythology regarding a real human being who came from a mother. After her death, the mother turned into a land that stretched along the Amungsal area (Tanah Amungme ). Because of this, this area is considered sacred by the local community, so that according to custom it is not permitted to enter.

## 2.RESEARCH METHOD

The research method used in this paper is to use an empirical normative juridical approach that uses an approach with methods of legal interpretation, legal construction, legal philosophy, legal history, and legal comparison, as well as the legal pluralism approach . The data used in this dissertation research are primary and secondary as well as tertiary data which are analyzed

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<sup>4</sup> cf. \_ PT Freeport McmoRRan Annual Report , 2015

<sup>5</sup> Ibid..

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<sup>7</sup> *Legal Protection for Indigenous Peoples in Mining Areas* .Lex Journalica Volume 10 Number 3. December 2013



objectively based on existing juridical references in order to obtain answers to the problems. The research is focused on examining the application of the rules or norms in positive law, in which the approach uses legal conceptions positivists and view law as synonymous with written norms made and promulgated by authorized institutions or officials and unwritten norms that apply in indigenous peoples. Research of a science requires a way in that research to get facts in the form of collected data so that they have relevance to the research being studied so that the information obtained becomes valid, accurate and accountable data. The normative approach is used to find out the legal position of an indigenous community in Indonesia, the ideal concept of a balance between the interests of the state and the interests of indigenous peoples in Indonesia, positive law that regulates customary rights of indigenous peoples over state interests and legal protection of indigenous peoples against exploitation of natural resources in territory above the interests of the state in order to create the prosperity of indigenous peoples as mandated in Article 33 paragraph (3) of the 1945 Constitution which confirms that the land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

## 2.1.Data Type

In this study, researchers will use data types which include secondary data and primary data relating to the exploitation of natural resources, legal protection of indigenous peoples, and provisions governing the renegotiation of cooperation contracts . Primary data is data obtained directly from the first source through field research, while secondary data includes official documents, books, research results in the form of reports, open newspapers and others.

Based on the explanation above, this research is directed as a descriptive research, namely a research that is intended to provide an overview of the condition of the subject and/or research object as it is so that this descriptive research aims to provide as accurate data as possible in a systematic and comprehensive manner regarding the legal position of an indigenous people , the ideal concept of balance between the interests of the state and the interests of indigenous peoples , positive law that regulates the customary rights of indigenous peoples over the interests of the state and legal protection for indigenous peoples.

## 2.2.Data Collection Techniques

The data used in this study comes from legal materials, namely materials which contain legal rules and other information related to a rule and legal event. These legal materials were obtained by searching legal documents such as laws and regulations, literature studies, as well as searching archives related to the formulation of the problems discussed in this study. In writing this dissertation the author uses secondary data sources, namely data obtained from literature books and laws and regulations related to the object under study which consists of:

### Primary Legal Materials

Primary legal material is the main and binding legal material. This material is in the form of laws and regulations that apply as follows:

- 1) the 1945 Constitution ;
- 2) Law No. \_ 21 of 2001 concerning Autonomy Special For Papua Province ;
- 3) Law No. 5 of 1960 About Fundamental Basic Rules Agrarian ;
- 4) Law No. 5 of 1967 concerning Provisions \_ \_ tree forestry ;
- 5) Law No. 11 of 1967 concerning Terms tree Mining ;
- 6) Law No. 4 of 2009 concerning Mineral and Coal Mining ;
- 7) Regulation Government No. 17 of 1992 concerning Requirements for Share Ownership in Foreign Investment Companies ;

- 8) Regulation Government No. 7 of 1993 Amendment to Government Regulation Number 17 of 1992 concerning Requirements for Share Ownership in Foreign Investment Companies ;
- 9) Regulation Government No. 20 of 1994 Share Ownership in Established Companies In Order Foreign Investment ; \_
- 10) Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency of the Republic of Indonesia No. 5 of 1999 concerning settlement guidelines Issues with Indigenous Peoples' Ulayat Rights ;
- 11) Papua Special Regional Regulation No. 22 of 2008 concerning the Protection and Management of the Natural Resources of the Papuan Customary Law Community;
- 12) Special Regional Regulations Papua Province (PERDASUS) No. 23 of 2008 concerning customary rights of customary law communities and individual rights of members of customary law communities over land
- 13) Civil Law Code \_

### 2.3.Data Analysis

The method of data analysis is in accordance with descriptive research, namely by using a qualitative approach, namely data analysis that reveals and takes the truth obtained from literature and field research, namely by combining regulations, jurisprudence, scientific books that have something to do with the main issues in this research. In this study, the author will analyze the data by first classifying the collected data and analyzing it to find the regulatory principles which are the content material of the provisions of laws and regulations and legal decisions based on the theoretical framework described above. This was done by analyzing the contents and interpreting the primary legal materials in accordance with the context of the time and space in which the documents were made, which were obtained from secondary legal materials.

## 3.RESULTS AND DISCUSSIONS

### 3.1.The History of Amungme and Kamoro in the Middle of PT Freeport Indonesia's Mining Operations

Ethnic group Amungme is part from ethnic group people in Papua who inhabit a number of valley area in the district Mimika and the District Puncak Jaya between the mountains tall that is valley Tsinga , valley Hoeya , and Noema valley as well the valleys small like the valleys of Bella, Alama , Aroanop , and Wa . Some more settled in the valley Beoga ( called ethnic group Damal , accordingly calling Dani tribe ) as well plains low in Agimuga and Timika city. As inhabitant ethnic group Amungme has settled in the city of Timika and its surroundings due to the settlement process returned by PT. Freeport Indonesia (PTFI), besides prohibition open nearby village \_ location mining cause they migrate to Timika as alternative look for job . Resident Amungme especially origin \_ from mountains Jayawijaya , has get facility housing area as well as land plantation from PTFI. However many in the end choose still live in the villages around mining , namely Kampung Banti, Waa, Tsinga , Arwanop .

Generally ethnic group Amungme has using exchange money official (rupiah) as tool buying and selling , no Again use barter system . Items for sale still very limited , such as : food tree ; petatas , taro , tubers , cooking oil , vegetables , tools sewing simple , and necessary House ladder daily other such as salt, soap and cigarettes. Moment This barter culture as well tool swap eral Already No Once Again used by some big ethnic group Amungme who live in urban areas or side by side with culture city . Different with public ethnic group Amungme who live inland \_ the northern part , namely in the area mountains Still use eral.



Eral Alone is system exchange - exchange goods with tool swap legally recognized \_ public Amungme , form skin bia ( snail ). Skin bia This obtained with exchange goods with people living on the beach . After skin bia obtained , they bring go home to place lived inland and shaped it become tool swap tribe. Livelihoods \_ ethnic group Amungme generally hunt Because supported factor natural with various the type of flora that grows thick and there various kinds of fauna such as pig forest , birds cassowary , bird mambruk , parrots , etc. , farming and farming plant as well as raise , a lot in between they has work in the city as traders , employees nor employee private .

### **3.2. Indonesian Government's Policy in Renegotiating the Contract of Work of PT. Free port Indonesia**

Contract renegotiations are common, because the long term of the contract makes it vulnerable to changes in political, economic conditions and technological developments. Consideration of renegotiating mining contracts aims to strengthen corporate social responsibility, especially on the point of domestic management and refining obligations by mining companies because it will generate mineral and coal investment opportunities later. However, if studied further in the Constitution of the Republic of Indonesia (RI), namely the 1945 Constitution of the Unitary State of the Republic of Indonesia (NKRI) it has been regulated that natural resources are controlled by the state and used as much as possible for the prosperity of the people. And then more detailed rules regarding mineral resources regulated in Law no. 4 of 2009 concerning Mineral and Coal Mining ( Minerba ) is a refinement of the previous Mining regulations namely Law no. 11 of 1967 concerning Basic Mining Provisions. Law No. 11 of 1967 which appeared at the beginning of the New Order regime, spurred the emergence of various mining management contracts which are better known to the public as Contracts of Work (KK).

Various problems related to the validity period of Law no. 11 of 1967, namely for 43 years, has caused various polemics and problems in practice which will then be corrected by the enactment of Law no. 4 of 2009 concerning Mineral and Coal Mining .. Several improvements contained in Law no. 4 of 2009 (through efforts to renegotiate contracts) is very important to do, considering that 43 years after the issuance of Law No. 11 of 1967 there has been a very drastic change in social, economic, political and environmental conditions and with very different socio-economic conditions, especially for the people Papua with a Contract of Work between PTFI and the Government of Indonesia.

### **3.3. Analysis of the Position of the Government of the Republic of Indonesia in Renegotiating the Contract of Work of PT. Freeport Indonesia Regarding Divestment Implementation According to Law Number 4 of 2009**

#### **1. Juridical Review Position of the Government of Indonesia in Contracts of Work and Special Mining Business Permits (IUPK)**

In realizing general welfare and as much prosperity and social justice as possible for all Indonesian people, the government participates in carrying out various functions outside the function of administering government. New functions that are not governmental, require the government to participate in social relations or legal relations as a party or subject that is no different from individual legal subjects or civil legal entities in general. Apart from that, there are lots of contracts that benefit the state in the context of civil law, especially freedom of contract.

In outline, the types of agreements commonly used by the government when carrying out its obligations can be described as follows:<sup>8</sup>

1. Ordinary civil agreement
2. Agreement on government authority
3. Agreement regarding the policy to be implemented

<sup>8</sup> Indroharto , *State Administrative Court*, (Jakarta: Sinar Harapan Library, 2004) p. 116

4. Agreements regarding the sale and purchase of goods and services

Of the four agreements above, the contract of work can be said to be a form of cooperation agreement between the Government and a Foreign Investment Company (PMA), which is a form of cooperation in an ordinary civil agreement. This is because the contract of work places both parties in the same position or degree even though there are many other factors that affect the degree of similarity. Ordinary civil agreements result in accountability for assets in order to fulfill the agreement. State assets are controlled by public legal institutions both at the central and regional levels. Apart from being part of state organizations, these public legal institutions also have independence. Therefore, legal institutions can also serve as civil legal entities. Ordinary civil law agreements that are always carried out by state administrative bodies, are carried out based on the government authority they have. Thus, every agreement entered into by the government is always preceded by the existence of a state administrative decision to carry out an ordinary civil law action or other. After a state administration decision is made, then a civil agreement is made.<sup>9</sup>

As a legal subject who commits a civil act, the State in this case is a civil subject in the sense of a legal entity ( *rechtspersoon* ). According to the form of legal entities are divided into two, namely public legal entities and private legal entities. A public legal entity is a legal entity established under public, public or state law in general.<sup>10</sup> These legal entities are state legal entities that have territorial authority or are institutions formed by those in power, based on legislation that is carried out functionally by the executive, government or governing body assigned to do so.<sup>11</sup> Meanwhile, what is meant by a private legal entity is a legal entity founded on the basis of civil law which concerns personal interests within that legal entity. This legal entity was established for specific purposes<sup>12</sup>, namely seeking profit, social, education,<sup>13</sup> science, politics, culture, arts, sports, etc.

The state in this case acts as a public legal entity as well as a private legal entity. The state is a public legal entity, namely a legal entity held by general authority.<sup>14</sup> The government as the executor of the state conducting civil relations can act as a subject that is no different from individual legal subjects or civil legal entities in general.<sup>15</sup> The state in carrying out civil acts is carried out and represented by the government. The government directly is the central government, the local government level I, the local government level II, as well as the government indirectly, such as BUMN, state companies and so on, can make an agreement or make a contract.

**3.4. Divestment shares of PT Freeport Indonesia No represent Interests of the Amungme and Kamoro Indigenous Peoples .**

Freeport Indonesia's share divestment is one of the longest-discussed contract renegotiation clauses. Discussions on the divestment of shares took place in 2012 and were only completed in 2019, which coincided with the end of the last period of Jokowi's administration. The difficulty in discussing these shares was due to the disagreement that PT Freeport Indonesia had to release 51% of the shares in the gold and copper mine in Grasberg, Papua to the national party. The national party in the divestment of shares is related to the order of Law No.4 of 2009, concerning minerals and mining and followed by its derivative regulations in PP No. 24/2012 concerning Implementation of Mineral and Coal Mining Business Activities. Through this PP, holders of foreign mining business permits (IUP) and special mining business permits (IUPK) are required to

<sup>9</sup> *Ibid*

<sup>10</sup> R. Soeroro, *Comparison of Civil Law*, (Jakarta: Sinar Graphic, 2007) p. 148

<sup>11</sup> *Ibid*

<sup>12</sup> *Ibid*

<sup>13</sup> *Ibid*

<sup>14</sup> Chidir Ali, *Legal Entity*, (Bandung: Alumni 2005) p. 61

<sup>15</sup> Abrar Saleng, *Mining Law*, (Jogjakarta: UII Press, 2004) p. 151



divest 51 percent of their shares in stages after five years of production. In the 10th year, 51 percent of shares have been held by Indonesian participants, namely the central government, regional government, state-owned enterprises, regionally-owned enterprises, or local corporations through an auction.

From the rules above, it is clear that the interests of the local government and the interests of the people in the area around the mine have begun to be accommodated. However, in relation to the PT Freeport Indonesia share divestment case, the stages of acquiring shares above do not apply. The central government only accommodates central interests through state-owned mining companies to take over 51% of PT Freeport Indonesia's shares. "We, the central government, have calculated from the start that the 51% stake in PT Freeport is very expensive, so it will not necessarily be offered directly to the local government if the state-owned company does not have the funding to take the 51% stake. Therefore, I and the Minister of Energy and Mineral Resources at that time (Minister of Energy and Mineral Resources, Ignas Jonan) met with the Minister of Finance (Sri Mulyani) and the Minister of SOEs (Rini Soemarno) to ask PT Indonesia Asahan Alumina (now renamed MIND ID) to seek funding through a global bond to take the opportunity to buy PT Freeport Indonesia shares. PT Freeport Indonesia's share price at that time was US\$4.7 billion. INALUM then received funds from global bonds of US \$ 5 billion. (Interview with Arcandra Tahar, Former Deputy Minister of Energy and Mineral Resources 2016-2019, 2 February 2022)

The central government thinks that the awarding of shares to state-owned mining companies is more for funding reasons, because PT Freeport Indonesia's share price is very high. The central government has made absolutely no offer to buy shares to the Papua regional government, neither the provincial government nor the Mimika district government. The reason is the same, PT Freeport Indonesia's shares are very expensive, while the capacity of the regional budget is very low. The central government also has concerns that it shouldn't be handed over to the regions, the local government then cooperates with private companies or foreign companies.

### **3.5.the Amungme and Kamoro tribes in the divestment of shares at PT. Free port Indonesia**

In connection with increasing the economic benefits of foreign investment activities in the mining sector, the mandate in Law Number 4 of 2009 concerning Minerba mandates a prohibition on the export of raw materials and therefore the government requires mining concession holders to build processing plants (smelters) as a condition to get an export permit. More than that, there are provisions governing the divestment of shares so that the portion of state ownership and/or national business actors in mining activities can increase. Freeport's threat to make the government's desire to implement this provision the basis for submitting investment disputes to international arbitration forums confirms their reluctance to comply with the law. On the other hand, the government also seems to measure itself against this threat, considering the potential losses and losses arising from the arbitration process, the government finally (again) gives concessions to Freeport by granting it the status of a Special Mining Business Permit (IUPK) and temporarily giving Freeport 6 (six) months to continue its concentrate export activities. Looking back, this is not the first time Freeport has received special treatment. When Law No. 41 of 1999 concerning Forestry was promulgated, Freeport objected to the provision prohibiting open pit mining activities in areas with protected forest status which would clearly threaten the continuity of its business. Responding to this, the Megawati government issued Government Regulation in Lieu of Law (PERPPU) No. 1 of 2004 which opened opportunities for open coal mining activities in protected forests to 12 companies, one of which was Freeport.

### 3.6. Implementation of PT. Freeport Indonesia and the Rights of the Amungme and Kamoro Tribes

More or less 50 years have passed, the Government of Indonesia still holds a minority stake of 9.36% of Freeport's shares, while Freeport McMoran Copper & Gold Inc. has a majority share of 90.64%. It is very ironic indeed, because dividends, which are small in portion, are often not paid on the grounds that the retained earnings policy for expansion capital is still common. In addition, the royalties given to the Government of Indonesia are also very small, namely between 1% -3.5%. of Work II extension agreement, which was signed in 1997, actually included divestment provisions in stages to reach 51% no later than 2011. However, Freeport is trying to retain control of the majority of shares by carrying out a sell-and-purchase trick. and buy back ) and price divestment of expensive shares ( expensive pricing ).

of sell tricks and buy back launched in 1991 by offering a 10% stake to the Government of Indonesia as a condition for extending the CoW for the next 30 years. The negotiations involved Mining Minister Ginanjar Kartasasmita and businessman Aburizal Bakrie. With the excuse that the government did not have sufficient funds, on December 30, 1991 Freeport's 10% stake, which was the government's share, was sold to businessman Aburizal Bakrie, namely to a company called ICICI (International Copper Investment Company Incorporated ) which is one of the Bakrie Group with a price of US\$ 212,484,540. Some shares are paid for in cash and some are paid for with bank loans. Thus, the composition of PTFI shareholders is:

Freeport-McMoran	: 170,400 shares (80%)
RI Government	: 21,300 shares (10%)
ICICI	: 21,300 shares (10%)

In December 1992, ICICI sold all of its shares to PTFI which it owned to PT. Indocopper Investama (“ Indocopper ”). 49% of Indocopper shares owned by the Bakrie Group were then sold to Freeport-McMoran . The composition of Indocopper's shareholders is the Bakrie Group 51% and Freeport-McMoran 49%. The composition of PTFI shareholders has not changed.

At the end of 1993 and early 1994, PTFI required additional capital by issuing additional 14,490 shares. However, in this case, only Freeport-McMoRan participated in adding the model, while other shareholders, namely the Indonesian government and Indocopper did not participate. Thus, the shares of the Indonesian government and Indocopper were eroded/diluted which caused the composition of PTFI shareholders to become as follows:

Freeport-McMoran	: 184,890 shares (80%)
RI Government	: 21,300 shares (10%)
Indocopper	: 21,300 shares (10%)

A few years later, the 10% stake was sold to entrepreneur Bob Hasan in 1997. The Bakrie Group sold all of its shares in Indocopper to PT. Nusamba Mineral Industry ( Nusamba ) at a price of US\$ 315 million. Nusamba paid for purchases with cash and money borrowed from the bank ( Freeport-McMoran as guarantor). With the sale of these shares, the shareholders of Incopper will become Nusamba 50.48%; Freeport-McMoRan 49%; and the public 0.52%. The composition of PTFI shareholders has not changed. Then in 2002, Nusamba was unable to return the loan to the bank, so Freeport-McMoran, acting as guarantor, paid the loan to the bank. Therefore, all of Nusamba's 50.48% stake in Indocopper will automatically switch to Freeport-McMoran . So that the shareholders changed to Freeport-McMoRan 99.48% and the public 0.52%. The next development was that in 2014, the Indonesian government and PTFI signed a Memorandum of Understanding on July 25, 2014 which stated, among other things, PTFI's willingness to divest up to a total of 30% (this is in line with PP No. 77 of 2014).





## 4.CONCLUSION AND SUGGESTIONS

### 4.1.CONCLUSION

Based on the explanation that has been explained by the author in the previous sections above, the writer would like to provide some conclusions which include the following:

1. Mining contracts of work, especially Contracts of Work between PT. Freefort Indonesia with the Republic of Indonesia which aims to respect human rights, namely related to cultural identity and the rights of traditional communities as referred to in Article 28 I paragraph (3) of the 1945 Constitution, recognizes and respects customary law community units and their rights their traditional rights as referred to in Article 18 B of the 1945 Constitution, and control of natural resources by the state for the greatest possible prosperity of the people as referred to in Article 33 paragraph (3) of the 1945 Constitution is a just goal for indigenous peoples in Indonesia, but this it is still difficult to realize because there is still neglect of the involvement of indigenous and tribal peoples in making contracts.

### 4.2.SUGGESTIONS

Based on results research that has done by the author , then writer mean give good advice For writers , readers , and For fellow Legal Practitioners who can handy and helpful for all party , that is as following :

1. Government must have firmness in order to maintain the authority and sovereignty of the state in implementing and supervising Constitution Minerba Number 4 of 2009 in mining activities which aims to create legal certainty for investors and the state with the aim of protecting their respective rights and obligations and of course also involving indigenous and tribal peoples in determining policies that can profitable for the parties .

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