

# The modus operandi of corruption during the growing period of nickel mining in Central Sulawesi: An 'elite capture' perspective

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**Abstract:** This article aimed to explain the *modus operandi* of corrupt practices and identify potential state losses due to corruption in the nickel mining sector in Central Sulawesi. Elite capture theory with a focus on the appropriation of natural resources by political and economic elites was used as the analytical framework in this article. This study employed a qualitative-descriptive approach. The data was collected through literature and field studies. To identify the positions and relations of actors in the nickel mining business, the Social Network Analysis (SNA) method was used with the help of the Gephi software. This study found that the actors involved in the nickel mining business came from diverse backgrounds including politicians, businessmen, bureaucrats, central government officials, regional officials, military personnel, and law enforcement officials. Network relations between actors were identified in five forms/patterns, namely business networks, family networks, party networks, government networks, and mass organization networks (social and religious). The *modus operandi* of actors and elites to obtain nickel mining concessions in Central Sulawesi was through land buying, selling and leasing, submitting legal opinions, buying and selling documents, rent extraction, shadow beneficial ownership, and illegal mining. Estimated potential state losses due to corruption in the mining sector since the growth of nickel in Central Sulawesi from 2011 to 2021 was estimated at approximately US\$ 100 billion. As a novelty in literature, this research found that elite capture is not only realized through bribery (corruption) but also through intimidation and business cooperation.

**Keywords:** Corruption; Capture; Elite; Nickel; Central Sulawesi.

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## Introduction

Indonesia is a country with the largest nickel reserves in the world (Center, 2022). Nickel deposits in Indonesia are located in West Kalimantan, Maluku, Papua, South Sulawesi, Central Sulawesi, and Southeast Sulawesi (Julzarika, 2017). Even though they are scattered in several regions in Indonesia, Sulawesi Island and North Maluku have the largest potential nickel reserves. The main sources of nickel are concentrated in three provinces, namely Central Sulawesi (26%), Southeast Sulawesi (32%), and North Maluku (27%) (Arif, 2018; Rushdi et al., 2020). Nickel content in Central Sulawesi makes this area one of the development areas for mining Special Economic Zones and nickel industrialization centers. This is a derivative policy from the Master Plan for Acceleration and Expansion of Indonesia's Economic Development (MP3EI) launched in 2011.

As a follow-up to MP3EI, in 2013 in Morowali Regency, Central Sulawesi, a nickel industry called PT. Indonesian Morowali Industrial Park (IMIP) was established. It was an Indonesian-Chinese private joint venture initiated through an economic cooperation agreement for the development of the mining industrial area. The Indonesia-China economic cooperation is a form of realization of the "One Belt One Road" tagline proclaimed by the Chinese government in 2013 (Lalisang & Candra, 2020). Far back before the industrialization process, nickel mining activities

in Central Sulawesi had been going on for a long time, when PT. INCO (now PT. Vale Indonesia) was the only company holding a nickel mining contract.

In the era of regional autonomy when the issuance of mining licenses was decentralized to the regional authorities, Central Sulawesi Province experienced a massive increase in mining business licenses. Mining practices during the era of regional autonomy caused several problems, such as overlapping licenses, land conflicts, mining on river banks, use of illegal fuel oil, and mining without license (Zuada et al., 2021). This allegedly caused state losses due to unrecorded taxes, loss of corporate social responsibility, and environmental damage (Kadir et al., 2020).

On the other hand, mining has positively impacted the increasing foreign investment and economic growth in Central Sulawesi, especially since the operation of the nickel industry in Morowali. For three years (2019-2021), Central Sulawesi had been ranked as the fifth province in Indonesia to become a destination for foreign investment (BKPM RI, 2021). In 2021, the realization of foreign investment in Central Sulawesi was ranked third in Indonesia, and first among provinces outside Java. Nickel industrialization in Central Sulawesi had also contributed to economic growth with an average achievement of 11.7% for over ten years, from 2011 to 2021. This economic growth was contributed, among other things, by export activities of iron, steel, and processed nickel derivatives which contributed 85.67% to Central Sulawesi's export value in 2020 (Badan Pusat Statistik, 2021).

However, the high economic growth and increase in foreign investment in Central Sulawesi were not accompanied by a significant poverty rate reduction, improvement in income inequality (Gini ratio), and an increase in the Regional Own-Source Revenue (PAD). In 2021, the poverty rate in Central Sulawesi reached 12.18% (Badan Pusat Statistika, 2022) which placed it as the 10th province in Indonesia with the highest poverty rate. Likewise, Central Sulawesi's income inequality also indicated stagnation. In 2020, Central Sulawesi's Gini ratio was 0.321, and 0.326 in 2021. This indicated that during the year, there had been an increase in income inequality (Bappenas, 2022). Investment contributions, industrialization of nickel, and its derivative products seemed to be incapable of significantly increasing Central Sulawesi's PAD. From 2018 to 2021, Central Sulawesi's PAD ranged from 1 - 1.1 trillion (Badan Pusat Statistika, 2022).

This paradoxical economic achievement indicated a problem in managing natural resources in Central Sulawesi. Previously, based on the Corruption Eradication Commission of Indonesia (KPK)'s findings through coordination and supervision of the mineral and coal mining sector (one of which was nickel) in Central Sulawesi Province, it was found that there were Non-Tax State Revenue (PNBP) arrears reaching 111 billion rupiahs, Mining Business License (IUP) that did not report income tax returns, IUPs that were not being transparent in allocating reclamation guarantee funds, and IUPs that did not report the production report data (Abdullah et al., 2017). The indication of corruption in nickel mining activities in Central Sulawesi was also revealed in an investigation by Tempo magazine discussing how political elites and mining entrepreneurs obtained business licenses through bribery and legal affairs. There were allegations of document forgery and their ability to link with state officials (Hermawan, 2022).

Corruption in the mining sector could be prevented if the government as a regulator and public servant applies the principles of good governance, and companies as business actors implement the principles of good corporate governance in managing their businesses. The lack of public participation and the lack of transparency in the process of licensing services in areas like Central Sulawesi gave chance for corruption to occur. Information secrecy was also found in the process of supervising mining activities as a task of the mine inspector, a task force unit under the Ministry of Energy and Mineral Resources. Supervision activities by mining inspectors in Central Sulawesi through inspection of the Work Plan and Budget (RKAB) of mining companies were carried out once a year. The results of these inspections were very difficult to obtain or access by the public, making it difficult to monitor every activity of registered, illegal, active, or inactive mining companies.

The lack of improvement in Central Sulawesi's governance was also reflected in the value of the monitoring center for prevention, an application for a corruption prevention assessment system designed by KPK, where Central Sulawesi obtained an average score of 61, which was still low. Likewise, based on the Integrity Assessment Survey (SPI) conducted by KPK on state officials,

Central Sulawesi was categorized as a corruption-prone area with an average SPI score of 70.05 (KPK, 2021). This placed Central Sulawesi in the 6th place out of 34 provinces in Indonesia with a high level of corruption-vulnerability.

The mining sector is one of many that are vulnerable to corruption. According to Dougherty (2015) study in Guatemala, corruption in the mining sector is vulnerable when the companies involved in mining are small companies with weak institutions. Limited resources and competitiveness encourage small mining companies to become vulnerable to corruption, especially during the approval process for environmental impact assessments. Small mining companies find it easier to mine by circumventing environmental approvals, resorting to violence and bribery, controlling elected officials, and establishing relationships with foreign capitals. Although small companies are vulnerable to corruption, the study found that mining companies of all sizes from all countries operating in Guatemala resort to bribery, threats, and extortion. They peddle influence within the state, connect with influential people in the permitting process, eschew universal standards of environmental management, and take shortcuts.

Dong et al. (2019) conducted a study on coal mining in China and found that mining activities could foster corrupt practices. Corruption in the mining sector in China is caused by regional governments not carrying out supervision and not being transparent in mining governance starting from contract terms, revenue streams, and subsidies funded by natural resource extraction. Mining regulations in China are attached to the regional government, promoting corruption involving regional leaders. Meanwhile, the study by Petermann et al. (2007) found that the impact of mining on corruption in each country is significantly different. Fuel-exporting countries influence corruption continuously, while in countries that rely on non-oil mineral exports, corruption is influenced by their economic levels. In poor countries, mineral exports tend to increase corruption, whereas, in rich countries, they reduce it. In contrast, Transparency International (TI) states that corruption is highly vulnerable to all types of mining regimes around the world, regardless of the stage of economic development, the political context, the geographic region of the country, or the size and maturity of their mining sector (Caripis, 2017).

Michael Ross states that the abundance of natural resources often causes bad effects. First, abundance often makes policymakers experience euphoria, act irrationally, think short term, and ignore possible situations. Second, the government often faces pressure from influential people, interest groups, and rent seekers who influence politics and law in order to benefit from the plentiful natural resources. Third, the abundance of natural resources encourages politicians to engage in a type of rent-seeking behavior called rent seizing, which is done by state actors to obtain the right to allocate rent (Ross, 2001).

Although many studies have been carried out on corruption in the mining sector, the existing studies only reveal its triggering factors. Meanwhile, there have not been studies on the actors involved in corrupt practices as well as the *modus operandi* of corruption in the mining sector. In response to this, this article aimed to examine the actors involved in corrupt conduct, their *modus operandi*, as well as the state's estimated losses due to corruption. This study focused on the nickel mining sector in Central Sulawesi and aimed to enrich the literature on corruption and elite capture phenomena benefiting from nickel abundance. This article found that corruption likely occurs when the perpetrators (elites) are connected to each other. In Central Sulawesi, the perpetrators of corruption were connected to each other through family, business, organizational, social, and party networks. They had various motives, such as land buying, selling, and leasing, seeking legal opinion, buying and selling documents, rent extraction, ownership concealment, and illegal mining. As a result of this practice, the state suffered substantial losses reaching approximately 100 billion US\$.

### **Theoretical Framework: Elite Capture**

Elite capture is a phenomenon where resources allocated for the public interest are confiscated by groups with political or economic power, at the expense of those that are less influential economically and politically (Dutta, 2009). Elite capture is defined as someone's dominance in the process of making public decisions and economic resources by relying on their superiority in society, such as through their power, wealth, status and social networks, education, and ethnicity

(Persha & Andersson, 2014). Inbanathan defines elite capture as more than just domination as the elites control resources for their own interests in corrupt ways (Rajasekhar et al., 2018). Elite capture is similar to grabbing, which means that someone takes something that is not rightfully theirs or takes more than their portions formally, informally, or covertly (Søreide & Williams, 2013).

In developing countries, this phenomenon is generally an implication of power decentralization. In a decentralized regime, the distribution of resources is left to those (the elite) with political power. Therefore, it is very likely that those with resource allocation are those who have political connections with elites and have individual closeness or group relationships with political power (Chatterjee & Pal, 2021). Ethnic diversity and the weakening of social norms trigger elite capture. According to Mitra and Pal (2022), ethnically diverse people who do not follow customary norms will be more easily arrested by the elites. In addition, elite capture occurs when the locals are apathetic and fully leave their decisions to the elites without being involved (Adusei-Asante & Hancock, 2016).

Bardhan and Mookherjee, (2000) identify various factors that promote elite capture at the regional level. First, there is a lack of political party competition in elections marked by the dominance of one party as the winner of the election. If elections strictly take place between political parties as characterized by changing the winning party in each election, then it will reduce the occurrence of elite capture. Second, there is a cohesiveness of interest groups which means that the more interest groups joining coalitions, the easier it is for elite capture to operate. Conversely, the more polarized the interest groups, the more difficult it will be for elite capture to occur. Third, there is a high level of voter ignorance due to the limited information about electoral candidates, thus encouraging voters to choose a candidate with influence in society (elites). Fourth, there is weak voter loyalty characterized by a changeable and easily mobilized voter attitude as a result of weak voter ideology and transactional political pressure. Fifth, there is the existence of inequality and poverty, meaning that the higher the level of inequality and poverty, the more opportunities for elite capture to occur. Sixth, there are differences in the electoral system at the regional and national levels. Seventh, there is a difference in the number of campaign funds at the regional and national levels. Laffont and Tirole (1991) stated that elite capture occurs due to information asymmetry and regulation. To sum up, there are many variables that encourage elite capture, namely political culture, political institutional factors, structural, and governance/regulation.

Various studies state that elite capture has a negative impact because it benefits those in a position of privilege in society at the expense of other groups (Saito-Jensen et al., 2010). Elite capture causes a scarcity of resources only available to those who can afford them. On the other hand, vulnerable groups such as workers, the poor, women, and other marginal groups, do not get a share (Mrema, 2017). According to Post (2008), elite capture results in minimal community involvement in decision-making, increased inequality, and the emergence of brokers.

Several characteristics of elite capture are when elites take control of decision-making, control resources, monopolize profits, and practice corruption (Mrema, 2017). According to Laffont and Tirole (1991), bribery and collusion is often performed by elites to capture. This argument is reinforced by Dutta (2009) who found that elite capture is realized through corruption. Thus, elite capture indicates the occurrence of corrupt practices, and its existence in mining management can be recognized when a community affected by a mine could have benefited from its existence but do not. Instead, the community becomes poor, weak, and marginalized as a result of the ongoing mining activities (Dupuy, 2017).

## Methods

This study employed a qualitative-descriptive approach through literature and field studies. It was conducted in three regencies, namely Morowali Regency, North Morowali Regency, and Banggai Regency. The three regencies were chosen because they were storing nickel deposits and a number of nickel mining business licenses in Central Sulawesi were issued in these three locations. The data in this study were obtained through document studies (collection of archives,



government reports, and media coverage), observation, and interviews. The literature study was conducted by collecting documents from government organizations involved in nickel mining activities such as the Central Sulawesi One Stop Licensing Service Office, the Ministry of Environment and Forestry, the Ministry of Energy and Mineral Resources, the Ministry of Transportation, the Ministry of Investment/BKPM, reports from the Corruption Eradication Commission (KPK), reports of the Audit Board of Indonesia, and documents compiled from non-governmental organizations that intensively monitor nickel mining activities, such as Jatam Central Sulawesi, Walhi Central Sulawesi, and Yayasan Tanah Merdeka.

Field studies were conducted through interviews and observations. The respondents were 13 people from various backgrounds including politicians, businessmen, local journalists, NGO leaders, youth leaders and students, the government (Mining Inspector), and village heads. They were interviewed in Bungku (Morowali), Kolonoladale (North Morowali), and Palu City. Observations were made by visiting Kolonodale, the capital of North Morowali regency, and Bunta Village, where PT. GNI in North Morowali Regency was established. In Morowali Regency, observations were made by visiting Bungku City, Bungku Timur District, and Bahodopi, where PT. IMIP and mining areas in Morowali Regency were located. After the data were collected, data coding followed. The coding process produced two forms of data, namely in the form of narrative quotations, and in the form of edge lists inputted in Microsoft Excel. The narrative excerpt was used to strengthen the discussion by including interview excerpts, and the edge lists in Microsoft Excel were used to conduct an analysis using the social network analysis method proposed by Wasserman and Faust (1994) with the help of Ghepi software to identify the actors' positions and relations in the nickel mining business.

## Results and Discussion

### Nickel Business Network and Potential for Corruption in Central Sulawesi

Central Sulawesi has very rich mining resources, ranging from nickel, gold, natural gas, coal, petroleum, molybdenum, chromite, copper, galena (lead), sulfur, gravel, granite, marble, quartz sand, iron sand, clay, and other rocks (EITI Indonesia, 2014). Nickel content in Central Sulawesi is spread over four regencies: Morowali Regency, North Morowali Regency, Banggai Regency, and Tojo Una Una Regency. An investigation by the Minerba One Data Indonesia (MODI) portal (Ministry of Energy and Mineral Resources, 2022), and ESDM One Map (ESDM One Map, 2022) found that by September 2022, there were 91 nickel Mining Business License Areas (WIUP) in Central Sulawesi.

The Mining Business License Area (WIUP) was divided into four classifications, namely: 88 Mining Business License for Production Operation (IUP-OP), 1 Work Contract (KK), 1 Mining Business License for Special Production Operation (IUP OPK), and 1 Special Mining Business License Area for Exploration (WIUPK-E). As many as 35 out of 91 companies holding a nickel IUP in Central Sulawesi were identified to belong to 13 groups. So, if all IUP holders in Central Sulawesi were combined, there would only be 56 business groups. The total area controlled by nickel WIUPs in Central Sulawesi reached 224,224 hectares. A multinational company, PT. Vale Indonesia, was the holder of the largest mining business license area, controlling 10.12% of the WIUP area in Central Sulawesi. The majority of companies holding IUP were dominated by private companies from the country, and only 7% were multinational companies. However, the domination of the private companies was only in a form of a small number of companies located in Central Sulawesi (12%), while the remaining 86% of companies holding IUP came from outside Central Sulawesi including Jakarta, South Sulawesi, and other areas in Indonesia.

The involvement of politicians-businessmen, retired officers, and their families in the ownership of nickel mining companies was a phenomenon found in Central Sulawesi. There were 16 business politicians closely related to nickel mining business activities. As politicians, they had positions in political parties, mass organizations, religions, and government institutions, while as businesspeople, they were registered to own shares and were members of the board of directors. In addition, it was found that 4 retired officers and 1 family of a retired officer were involved in the nickel mining business. Officials granting business licenses for nickel mining were dominated by

regional government officials—46% were by regents, 30% were by governors, and the remaining 24% were issued by the central government (ministers).

The nickel mining business network in Central Sulawesi involves many people from regional and central government officials, businessmen, political party officials, law enforcement officials, activists, lawyers, and processing (smelter) industry, to village elites. The involvement of these actors is generally closely related to the authority and position they have in nickel mining activities. Based on research findings, there were at least three areas prone to corruption in the nickel mining sector, which are the licensing, mining, and sales sectors.

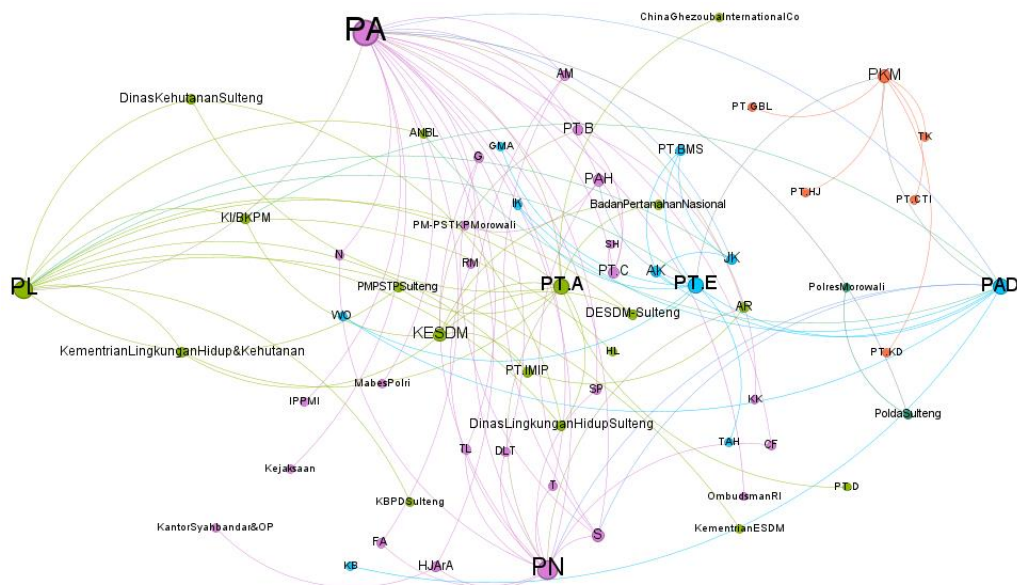
A license is a requirement that must be owned by every company in carrying out mining business activities. The Ministry of Energy and Mineral Resources is the leading authority in the license issuance process. There are at least 14 types of licensing services provided by the Ministry of Energy and Mineral Resources with ten of them being related to mining (Ministry of Energy and Mineral Resources, 2022). The process of issuing a license by the Ministry of Energy and Mineral Resources is not done independently. It involves institutions from other ministries, as well as provincial and regency governments. There are at least 4 other ministries that have links with nickel mining licensing activities, namely, the Ministry of Environment and Forestry, the Ministry of Transportation, the National Land Agency, and the Ministry of Investment/Investment Cooperation Agency which manages an integrated risk-based business licensing system after the issuance of Law Number 11 Year 2020.

Prior to the enactment of Law Number 3 of 2020 and Law Number 11 of 2020, the process of issuing mining business licenses was under the authority of the provincial government. In this dynamic, the governor was an actor playing a role in issuing mining business licenses. The process of issuing licenses by the governor was delegated to the One-Stop Integrated Service Investment Service (PMPTSP). Furthermore, in the process of issuing licenses, PMPTSP first asked for recommendations from the Central Sulawesi Provincial Energy and Mineral Resources Service and the regent of the area where the business was located, the National Land Agency, the Central Sulawesi Provincial Environmental Service, the Central Sulawesi Provincial Forestry Service, and the River Basin Organization. (Amijaya et al., 2022).

The Ministry of Energy and Mineral Resources was also a leading authority in guiding, controlling, supervising, and managing Non-Tax State Revenue (PBNB). Prior to the enactment of Law Number 3 of 2020 and Law Number 11 of 2020, this authority was delegated to the provincial (regional) government. However, after the implementation of the two laws, there had been a change where the involvement of the central government increased, and the authority of regional governments decreased. The task of mining fostering, controlling, and supervising has now been coordinated by the Directorate General of Minerals and Coal and carried out by mine inspectors stationed in each province.

The actors involved in nickel mining business activities came from various backgrounds: politicians, businessmen, bureaucrats, regional and central government officials, the military, and law enforcement officials. There are five types of networks between actors identified, namely business networks, family networks, party networks, government networks, and mass organization networks (social and religious). The form of networks that connect actors is divided into two, direct and indirect relationships. A direct relationship is a relationship between actors established directly without the intermediary of other actors. On the other hand, an indirect relationship is a relationship between actors established through intermediaries, involving other actors who still possess a business connection. The actors involved are related by business interests, inherent authority, and their roles in nickel mining business activities.

The formation of corruption networks cannot be separated from the social interaction that exists between one actor and another (Rahman et al., 2018). Each actor has a relationship with other actors in the network, which will then form more complex sub-networks (Warburton, 2013). Search results regarding the business network of PT. A, one of the companies holding an IUP and operating in Central Sulawesi shows that there was a mutual relationship between these actors.



**Figure 1.** Map of Networks among Actors in PT. A as a Nickel Business in Morowali Regency. Based on the Figure 1, descriptive statistics for the business network of PT. A are as follows:

**Table 1.** Descriptive Statistics of PT. A Business Network

No.	Descriptive Statistics	Networks
1.	Size	Node: 61 Edges: 106
2.	Network density	0,029
3.	Modularity	0,499; 5
4.	Diameter	7
5.	Average degree	1,738
6.	Average path length	2,452
7.	Connected component	1
8.	Power influence	PA

Source: processed research, 2022

The Table 1 shows that the business networks in PT. A had 61 nodes and 106 edges. This shows that in this network, there were 61 actors that interacted through the formed 106 edges. The network proximity was 0.029 which indicated that the network was tenuous (close to 0 = loose, close to 1 = strongly connected). The modularity value of 0.499 means that the business network did not consist of a single community, but was divided into 5 groups, namely: the PA group (purple) being the largest community (40.98%), followed by the PL group (light green) of 29.51%, the PAD group (blue) of 16.39 %, the PKM group (orange) of 9.84 %, and the smallest group (dark green) of 3.28 %. Furthermore, the diameter or the shortest distance that connected the actors was 7, which means that the path traversed by one actor to another was not short, where on average a node is connected effectively with 7 other nodes. Furthermore, the average degree value was 1,738, which indicates that a node was related to 2 other nodes. This means that in this organizational structure, information dissemination was relatively slow. The average path length was 2,452, meaning that on average, a node connected to other nodes must pass 2 nodes. Lastly, the connected component had a value of 1, which indicates that there was only one network component.

**Modus Operandi**

The results of the research revealed various *modus operandi* of corruption in nickel mining activities in Central Sulawesi, namely land buying, selling and leasing, submitting legal opinions, buying and selling documents, rent extraction, shadow beneficial ownership, and illegal mining. Of these modes, the practice of illegal mining, buying and selling of documents, and submission of

legal opinions was the most frequently encountered recently, while buying, selling, and leasing of land were generally carried out at the beginning of the opening of an area containing a mine.

#### Buying, selling, and leasing of land

Buying, selling, and leasing of land containing mines is a pattern carried out in nickel mining business activities. This practice begins with the determination of mining business license areas by the government. Once an area/land is designated as an area with a mining business license, it triggers an increase in land transactions by speculators. The buying and selling of land are based on the ownership of a Land Registration Certificate (SKPT) issued by the National Land Agency. These speculators are generally businessmen, law enforcement officials, and bureaucrats who buy land belonging to residents, with the hope that one day when the government issues mining business licenses, these landowners will receive compensation from the IUP holders or can cooperate with IUP holders to carry out land excavation through a profit-sharing system. The profit-sharing system pattern for land processing is the most frequently used motive compared to the compensation pattern.

The practice of buying, selling, and leasing mining land gives rise to three patterns of mining entrepreneurs. First, mining entrepreneurs who have IUP. This group is generally entrepreneurs and people with networks in issuing IUPs. This group comes from various backgrounds with money and networks that help them deal with mining licenses. Second, mining entrepreneurs who own the land. They do not have an IUP but own/control land that contains mines. This group comes from landowner residents as evidenced by land ownership documents. In addition to residents, these landowners are regional government officials and law enforcement officers who buy land or obtain land ownership licenses from the local village government. This second group carries out mining activities through a joint production-sharing mechanism with IUP owners. Third, mining entrepreneurs who lease land. This group is in the nickel mining business by leasing the residents' land. In carrying out mining activities, this group cooperates with the first group, and among them are also those who arrange the IUP issuance after the land lease agreement with the landowner has been successfully obtained. This group consists of businessmen, politicians, and government officials capable of leasing land.

#### Legal opinion

Legal opinion is one of the ways taken by IUP holders whose IUPs have been revoked to be able to carry out mining activities again or in popular terms 'reviving dead mines'. The use of this legal opinion originated with the issuance of the Ministry of Energy and Mineral Resources Regulation Number 26 of 2018. Article 54 paragraphs 1 and 2 that state: First, In the context of the implementation of supervision to the Mineral and Coal Mining Business Management, Director General issued the list of Mining Business License (IUP) and Special Mining Business License (IUPK) which fulfilled the following provision: (1) Its Coal Mining Business License Area (WIUP) or Special Mining Business License Area (WIUPK) does not overlap with the commodities; (2) has fulfilled the payment of non-tax revenue obligations; and (3) has fulfilled the technical and environmental obligations in accordance with the provisions of laws and regulations. Second, In the event that the fulfillment of the provisions referred to in paragraph (1) is in the process of dispute settlement in the court or other related authorities, the Director General shall include the Mining Business License (IUP) or Special Mining Business License (IUPK) in the list as referred to in paragraph (1) after a decision of court or related authorities which state that the aforementioned Mining Business License (IUP) or Special Mining Business License (IUPK) has fulfilled the provisions as referred to in paragraph (1).

The mentioned regulations provide a loophole for companies whose licenses have been revoked by the government to be able to re-issue their IUP and IUPK through a court decision or related institution with the authority to declare that they have fulfilled the provisions of article 54 paragraph 1. The Regulations of the Ministry of Energy and Mineral Resources triggered the holders of IUPs which had previously been revoked to submit legal opinions to the relevant institutions to carry out mining activities. The Attorney General's Office and Ombudsman are the state institutions asked by IUP holders for recommendations to obtain legal opinions.



The process of managing up to the issuance of this legal opinion begins with a submission made by the IUP-holding company to the provincial government through a feasibility assessment by the provincial Energy and Mineral Resources Agency. Then, when declared appropriate, the provincial government submits a request for a legal opinion to the prosecutor's office. The results of an investigation by Tempo magazine found that the Central Sulawesi High Court had issued 84 legal opinions for 80 companies by January 2022. Twelve of the 80 companies had been successfully registered in the Energy and Mineral Resources MODI data, which means that they were already able to carry out mining activities (production). In addition to the prosecutor's office, the Ombudsman is an institution that IUP owners pass through to obtain administrative legality for IUP holders.

With a legal opinion, IUP owners become their starting point for registering MODI at the Directorate General of Mineral and Coal as proof of legality. Some of these companies have even carried out mining activities without waiting to be registered in MODI. The issuance of this legal opinion has indirectly caused state losses. Although The Regulations of the Ministry of Energy and Mineral Resources 26 of 2018 had been revoked, their effect created new problems in mining activities in Central Sulawesi, namely those not in accordance with licenses and licensed areas with a potential to eliminate social and environmental responsibility.

#### Buying and selling documents

Buying and selling documents is a practice that occurs in nickel mining activities. There are at least three forms of documents in such a transaction. First, the mining business license document. This involves large investors and either active or inactive IUP holders. Active IUP holders sell documents to other parties in the form of transfer of share ownership or company ownership. In business activities, buying and selling shares and changing the composition of the board of directors are legal things. However, it was found that there are monopolistic practices played by actors who own mining business licenses and more than one company. The practice of buying and selling documents begins when the Ministry of Energy and Mineral Resources issued Regulation Number 26 of 2018 which provides an opportunity to reactivate IUPs that have been revoked or inactive. This regulation raises speculators and IUP sellers and has indirectly encouraged the practice of buying and selling IUP documents by IUP owners. Those who sell these IUP documents expect quick profits, while the buyers hope that the IUPs can be used to submit legal opinions without having to apply for a new license so that mining activities can be carried out as soon as possible.

*Second*, buying and selling of shipping requirements documents. This practice originated from mining activities without documents (illegal). To gain legality for selling ore, these illegal mining companies buy documents from legal mining owners, making illegal mining activities appear as if they were legal. This way, shipping activities can be carried out. This practice involves illegal miners, law enforcement officers, port activity supervisors, jetty owners, and legal mining owners. This mode is called 'dokter', an abbreviation for "*dokumen terbang*" or flying documents in English, which is the use of legal company documents to sell ore from illegal/unlicensed activities. Third, the buying and selling of subsidized fuel usage documents. Fuel oil (BBM) shortage is a common phenomenon that occurs in areas containing mines. One of its triggers is the purchase of subsidized fuel which is sold for illegal mining activities. The regulation prohibits the use of subsidized fuel for mining activities, but subsidized fuel can be legalized through the practice of buying and selling documents involving the owners of fuel oil distribution companies backed by unscrupulous officials.

#### Rent Extraction

Rent extraction is an activity of threatening and extorting by law enforcement officials against IUP owners and illegal miners. IUP holders experience threatening actions when their company's activities receive scrutinies from the public, activists, or media attention, such as allegations of mining activities without license, mining activities that damage the environment, mining without license in forest areas, and non-fulfillment of environmental obligations. Such a situation allows law enforcement officials to conduct investigations into companies that get public attention.

However, there is no progress during the investigation nor is it terminated. According to the interviewees, 'the company under investigation is used as the 'ATM machine' for law enforcement officials, and it has been conditioned that way'.

Bribery in investigating mining activities was told by one of the families who owned land with a mining business license in North Morowali. When they knew that there was a team wanting to conduct an investigation, they offered money so that they would not be involved (NA, 2022). The stagnation of the investigation process conducted by the police on reports of mining cases is also an indication of the process of bartering and mutual hostages. In Morowali Regency, which is the location of mining activities, mining cases have become the material for media coverage, including news about illegal mining activities (Radar Sulteng, 2022) and allegations of falsification of the Morowali Regent's signature document to obtain a mining license (Qodri, 2022). The law enforcement officials who conducted investigations into these cases were in the middle of resolving them but did not show any progress. An informant said that as long as there is a bribe and the authorities are backing them, those who violate the law will not be touched (R, 2022).

#### Shadow beneficial ownership

Shadow beneficial ownership of mining business licenses is a pattern used by political elites in Central Sulawesi to avoid public scrutiny. The results of the document reviews and field observations revealed that the company owners listed in the MODI ESDM were not the actual owners in the field. Among them were political elites and members of the legislature. The non-transparent disclosure of company owners allows for tax evasion, money laundering, and the potential misuse of terrorism financing. Lack of transparency regarding the beneficial owners of a corporation can lead to several cases of abuse with the aim of breaking the law, practicing bribery and corruption, hiding assets from creditors, and other illicit activities. It is very possible that this can happen, especially in several criminal cases involving beneficial owners who often take advantage of companies to enrich themselves. Meanwhile, in the organizational structure, if a person is not listed, there could be a loophole for corruption (Ministry of Law and Human Rights, 2022). The non-transparency of the beneficial ownership has also resulted in the practice of buying and selling IUP, and when the ownership changes, the environmental and social responsibility caused by the mining activities of the previous owner becomes difficult to cover.

#### Illegal mining

Based on field investigations and interviews with respondents, the term illegal mining has two definitions. First, it refers to miners without legal documents but carry out mining activities. Second, it defines miners with legal documents, but carry out mining activities outside the Mining Business License Area (WIUP), covering corridor areas and WIUP belonging to other companies or still in the process of being disputed. The first group of illegal miners involves unscrupulous village officials and elites (the village heads and the chairmen of the village representative body). Officials act as security guards that protect from community pressure or conversely take action to suppress critical groups. A local journalist described the involvement of the apparatus in the mining business in Morowali Regency.

"I once covered news at the Regent's office. The Regent was furious with the Mining Service personnel because many actors in the mining industry did not apply for permission from the Morowali Regional Government, yet a license was obtained from the central government. Prior to that incident, the Regent was indeed angry with miners for taking people's land. He said, "Who asked you to come here (to mine)? I know that there are people backing you up (apparatuses), aren't there?". (N, 2022).

Meanwhile, the role of the village elite is to provide legitimacy and embrace villagers to accept investors with guarantees of benefits for the village, financial income, and getting a guaranteed deposit. It is undeniable that mining company activities included in rural areas make a financial contribution to the village, where each operating company must deposit a certain amount of money to the village head, which is termed as dust money, vibration money, shipping money, and the realization of Corporate Social Responsibility (CSR) management. Dust money is money

deposited by the company to the village government as compensation for company activities that cause air pollution. Vibration money is money deposited as compensation for noise pollution. A shipping fee is money paid to the village government for each shipment or loading of nickel ore. Meanwhile, the realization of CSR management is in the form of goods distributed by companies to residents as a form of company contribution. This CSR mechanism is provided by companies to the residents directly, making it different from dust money, vibration money, and shipping money given to village heads.

The payment of dust money, vibration money, and shipping money do not have clear regulations, so the amount to be given is not clear. The management of company deposit money is also not carried out transparently, giving rise to residents' suspicions that there was a game (corrupt practices) between the village elite and mining companies. This indication gets stronger when the village heads in the area around the mine possess property or obtain increased and striking wealth (cars and excavators) after becoming village heads. A respondent said that in Morowali Regency, the interest in becoming a village head was now higher than in becoming a member of the legislature, because in a village where a mine is located, the village head can get hundreds of millions of profits from mining entrepreneurs. The support of village officials and elites prevents illegal mining activities from becoming a problem for residents, as long as it contributes to their economy. The legitimacy of the village elite and the support of the apparatus facilitates the first group of illegal mining activities.

Furthermore, the second group of illegal miners consists of IUP holders with legality. However, the mining activities are carried out outside the licensed area. In contrast to the first group which uses intimidation, the second group of illegal miners has a neater approach since they have official documents, but when their locations are matched, discrepancies in the licensed area will be found. This second group also conducts mining activities by applying for licenses and mining activities at the same time. Even though the license application has not been completed (recorded in MODI), they carry out mining activities even up to shipping. This second group of illegal miners also takes advantage of regulatory ambiguity that has not been strictly regulated and the weak monitoring of port activities. The arrest of two vessels laden with nickel-TB. Trans Pacific 202 which pulled the Terang 05 barge carrying a cargo of nickel totaling 7,500, 596 MT and the TB Ship, and Buana Express 8 that pulled the Golden Way 3308 barge carrying a cargo of 10,502.782 MT of nickel—without valid documents on 25 April 2022 by the Indonesian Navy in Morowali (Dirhantoro, 2022), indicated that port supervision activities under the authority of the Port Authority and Port Authority Office (KSOP) was not running, so illegal mining continued to occur freely. Previously, on 15 April 2022, the Indonesian Navy also arrested three barges loaded with nickel ore in the waters of Kendari Bay bound for Morowali waters (IDX Channel, 2022). Regarding illegal activities, a source acknowledged all of them happening could not do anything because many protected them and benefited from the nickel mining business, ranging from unscrupulous police officers, armed forces, regional government bureaucrats, port authorities, and activists, to village elites (R, 2022).

### **Potential Economic Losses Caused by Corruption in Nickel Mining**

The Gross Regional Domestic Product (GRDP) of Central Sulawesi had experienced growth over the past few years. This was inseparable from the increase in nickel production in several nickel-producing regencies in Central Sulawesi, namely Banggai, Morowali, and North Morowali. The three regencies had an important role in supporting the regional economy. Own-source revenue from Morowali, North Morowali, and Banggai Regencies in the last three years had tended to increase, although, for Morowali Regency, the increase in Regional Own-Source Revenue (PAD) in the last three years had not been as large as in previous years. In fact, it was rather small. This indicated that the increase in the manufacturing, mining, and quarrying industrial sectors did not have a significant impact on increasing the PAD of producing regions. Regional dependence on central transfers is still very large, even in those with large natural resource potential.

Fees in the form of royalties and land leases related to mining are potential regional revenues collected by the State as Non-Tax State Revenue (PNBP), which are then distributed to producing regions with a certain percentage to overcome the vertical imbalance between the central and

regional areas. Law number 4 of 2009 concerning mineral and coal resources indicates that holders of Mining Business Licenses (IUP) and Special Mining Business Licenses (IUPK) are required to increase mineral and coal resources in mining, processing, and refining activities, as well as utilization of domestic mining products (articles 102-103). This law was the start of the ban on nickel ore exports in 2014 (5 years after the law was enacted), and was fully enforced since 1 January 2020, in accordance with the Ministerial Regulation (Permen) of the Ministry of Energy and Mineral Resources (ESDM) No. 11 of 2019 concerning the Second Amendment to that of No. 25 of 2018 concerning Mineral and Coal Mining Business (Minerba). This was intended to increase state revenues through increasing downstream industries. The Table 2 shows nickel production from the three regencies over the years.

**Table 2.** Nickel Production in Central Sulawesi Province, Banggai Regency, Morowali Regency, and North Morowali Regency (In Tons) in 2011-2021

Year	Central Sulawesi	Banggai Regency	Morowali Regency	North Morowali Regency	Total production (3 regencies)	Difference
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	A	B	C	D	E=(B+C+D)	A - E
2011	4.594.706	50.000*	6.077.470,16**	4.981.630***	11.109.100,16	-6.514.394,16
2012	10.648.543	1.084.714*	8.060.630**	6.926.910***	16.072.254	-5.423.711
2013	8.221.489	680.226	5.619.270	1.921.993	8.221.489	0
2014	-	-	-	-	0	0
2015	626.621,90	-	626.621,90	-	626.621,9	0
2016	3.515.655,49	-	3.515.655,49	-	3.515.655,49	0
2017	5.254.042,41	-	46.060.341,92	647.700,49	46.708.042,41	-41.454.000
2018	7.255.794,66	-	6.150.370,17	1.150.424,49	7.300.794,66	-45.000
2019	12.482.724,69	19.827,00	10.479.363,36	1.983.534,33	12.482.724,69	0
2020	14.403.726,52	967.249	11.763.424,52	1.673.053	14.403.726,52	0
2021	18.053.471,65	2.676.057,69	12.784.197,89	2.593.216,07	18.053.471,65	0
Recorded total difference						-53.437.105,16

Notes:

\* (Banggai Regency Central Agency on Statistics)

\*\* (Morowali Central Agency on Statistics via Kolono Dale port)

\*\*\* (North Morowali Central Agency on Statistics via Kolono Dale port)

Data processed in 2022.

**Table 3.** Estimated State Loss Differences in Nickel Production Calculations Year 2011-2021

Year	Difference in production (unit quantity) In tons	Unit price (Per Ton)	Nickel Production (Monetary Unit) In USD
2011	6.514.394,16	35,01	228.053.976
2012	5.423.711	30,73	166.696.855
2013	0	26,01	0
2014	0	20,65	0
2015	0	0,00	0
2016	0	0,00	0
2017	41.454.000	31,78	1.317.543.145
2018	45.000	31,78	1.429.901
2019	0	33,88	0
2020	0	0,00	0
2021	0	0,00	0
Estimation of State Losses			1.713.723.877 USD

Source: processed research 2022.

The Table 2 shows a difference in nickel production based on the Central Agency on Statistics' (BPS) reports in 3 regencies (column 6) and at the provincial level of Central Sulawesi (column 2). The amount of nickel production reported by BPS at the provincial level was smaller, compared to nickel production recorded at the regency level. This discrepancy can be seen in the reports for the years 2011, 2012, 2017, and 2018. In 2011, there was a miss of 6,514,394.16 tons, 5,423,711 tons in 2012, and 41,454,000 tons and 45,000 tons in 2017 and 2018 respectively. Overall, the difference in total nickel production not recorded by the Central Sulawesi provincial government



from 2011-2021 reached 53,437,105.16 tons which were nominally equivalent to USD 1,713,723,877. This was estimated by calculating the price of nickel for Indonesian exports to the world over the years (ITC), as shown in Table 3.

Differences in reports also exist in bilateral trade between Indonesia and export destination countries. China as one of Indonesia's main export destinations for nickel ore and concentrate received 96% of the nickel ore and concentrate exported by Indonesia in 2019.

**Table 4.** Bilateral Trade Between Indonesia and China (HS 6 Code 2604: Nickel Ores and Concentrates)

Year	Indonesia Exports to China			China Imports from Indonesia			Difference		
	US\$	Ton	price @ tons (USD)	US\$	Ton	price @ tons (USD)	US\$	ton	price difference
2013	1.447.416.000	58.604.652	24,70	2.999.735.000	41.051.548	73,07	1.552.319.000	-17553104	48,37
2014	82.209.000	3.989.894	20,60	759.611.000	10.641.407	71,38	677.402.000	6651513	50,78
2015	0	0	0,00	2.631.000	140.510	18,72	2.631.000	140510	18,72
2016	0	0	0,00	4.411.000	104.405	42,25	4.411.000	104405	42,25
2017	149.972.000	4.754.828	31,54	214.195.000	3.833.310	55,88	64.223.000	-921518	24,34
2018	611.883.000	19.259.479	31,77	959.151.000	14.962.534	64,10	347.268.000	-4296945	32,33
2019	1.051.604.000	31.153.857	33,76	1.806.934.000	23.894.975	75,62	755.330.000	-7258882	41,86
2020	0	0	0,00	193.390.000	3.393.251	56,99	193.390.000	3393251	56,99
2021	0	0	0,00	48.148.000	839.161	57,38	48.148.000	839161	57,38
Total Recorded Difference (Estimated State Losses)							\$8.644.019.000		

Source: International Trade Center 2022 (Processed)

The Table 4 shows that there were differences in the recording of the value of Indonesia's exports to China and the value of China's imports from Indonesia. The most obvious difference found was that the selling price of nickel ore per ton reported by Indonesia was much lower (based on the BPS calculations), compared to the purchase price reported by China (based on the General Administration of Customs of China). This was displayed in the international trade center, where there appeared to be a very significant difference. The gradual banning of nickel ore exports which began in 2014 and was fully implemented in 2020 appeared to have encouraged illegal nickel ore exports. In 2014-2021, the General Customs Administration of China recorded by the ITC found imports of iron ore from Indonesia continued to occur with a value that continuously increased every year (International Trade Center, 2022).

### Analysis

Based on the empirical discussion above, the growth of nickel mining in Central Sulawesi had encouraged elites from the center, provinces, and regencies to villages to be involved in mining business activities. These elites acted as shareholders, mining contractors, intermediaries, and protectors of mining activities, where this phenomenon was appropriately termed elite capture. The arrest of elites in mining business activities in Central Sulawesi was at least motivated by various things. First, the restricted government information in mining management made it difficult for the public to control mining activities that violated regulations and involved elites, especially political and government ones. Second, there was a lack of public participation in the decision-making process regarding mine management. Apart from being caused by the concealed public information and the weak understanding of society, it was also due to the maintenance of a patrimonial political culture in Central Sulawesi society.

Third, there was a cohesiveness of interest groups. The diversity of social organizations such as ethnic groups, political parties, religious organizations, and mass organizations in Central Sulawesi, was unable to carry out an effective control function. This was because the organization had been co-opted by elites by placing or positioning them as chairmen, supervisors, and funders, so the critical power of these interest groups was paralyzed. In certain situations, it was easier for interest groups to blend in when faced with threats. Fourth, high political financing encouraged political elites to invest in the nickel mining sector. The activity of dredging nickel-containing soil was easier to do and the results were quicker than being a contractor working on a government project. For politicians with no financial strength to finance their campaigns, they obtained some support from mining entrepreneurs (Zuada et al., 2021). Fifth, limited information and people's

permissive attitude toward money politics encouraged voters to make transactional choices. In this situation, it was easier to arrest the elite by simply giving money to prospective voters.

In arresting the mining sector, the elites had various *modus operandi*, namely land buying, selling and leasing, submitting legal opinions (LO), buying and selling documents, rent extraction, shadow beneficial ownership, and illegal mining. In some of these modes, the method of arresting elites was realized through bribery, although this was not the only measure. Elite capture was also carried out by intimidation through the deployment of state security forces, extortion, and criminalization. Apart from that, the model of business cooperation between local-national entrepreneurs, native-foreign entrepreneurs, activist entrepreneurs, and political entrepreneurs was another way used by elites to capture natural resources. This showed that elite capture was not only realized through bribery (corruption) but also through intimidation and business cooperation. Central Sulawesi political-economy researcher, Arianto Sangadji, referred to this as Ali-Baba, as outlined in his research travel notes “I met the industry players, smelter owners. They’re just like Ali-Baba in general, similar to the old Benteng era. Ali is a native, he's like a lackey, and the capital operator is the foreigner Baba. I also met the bureaucrats. This one is a Baba-Ali type, like in Guided Democracy the other day. Baba is the financier. He makes a fortune from collusion with Ali as a man with status. Now Ali can be all kinds of things: a bureaucrat, a politician, and an LO printer.”

Nickel mining activities in Central Sulawesi have had a positive impact on economic growth, investment, and increased exports, but the presence of elite capture has contrarily had a negative impact, namely the low regional original income, poverty, and inequality levels. Thus, it can be concluded that nickel mining benefits the elite but not the welfare of the community and the region, as seen from the Gini ratio which has not changed significantly even though the GRDP continues to increase. In terms of regional income, the abundance of nickel does not have a very significant impact on increasing PAD, even though the productivity of nickel and its products continues to increase. This confirms the findings of previous research regarding the resource curse phenomenon, in which the abundance of resources does not bring wealth but instead encourages politicians to engage in rent-seeking behavior, and makes people increasingly marginalized and poor. Corrupt conduct in nickel mining activities leads to economic losses in the country.

### Conclusion

Based on the research results, it can be concluded that: (1). The actor relations in the nickel mining business in Central Sulawesi come from diverse backgrounds. Network relations between actors were identified in five forms/patterns, namely business networks, family networks, party networks, government networks, and mass organization networks (social and religious); (2). The *modus operandi* between actors and elites to obtain nickel mining concessions in Central Sulawesi are in the forms of land buying, selling and leasing, submitting legal opinions, buying and selling documents, rent extraction, shadow beneficial ownership, and illegal mining. (3). The calculation of potential losses from the difference in nickel production calculations from 2011-2021 and the difference in nickel exports from Indonesia to China from 2014-2021 were estimated at approximately US\$ 100 billion or equivalent to 155 trillion rupiahs. Departing from that, this research provides scientific and practical recommendations. Scientifically, this research possesses some limitations because it only observed the forms of corruption in the nickel mining sector in one region (Central Sulawesi). Practically, this study recommends the following things. First, there should be a need for a more in-depth investigation of potential state losses in the upstream sector and strict enforcement of the law. Second, there should be an addition of supervisory apparatus personnel and the need to build a transparent, integrated, and responsive oversight mechanism system. Third, there should be an encouragement regarding the transparency of companies holding IUP and smelters in sales activities, the mining process, and the need to install company information boards to facilitate supervision and prevention of land theft among mining companies. Fourth, there should be a need to increase monitoring activities for shipping and nickel ore loading vessels.

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