

## **Re-Examining Contracts in Managing and Exploiting Strategic National Resources: A Case in Divestation Process in the Share Distribution of Mining Corporation in West Nusa Tenggara, Indonesia**

**Authors :** Hayyan ul Haq, Zainal Asikin

**Abstract :** This work aims to explore the appropriate solution in solving legal problems stemmed from managing and exploiting strategic natural resources in Indonesia. This discussion will be focused on the exploitation of gold mining, i.e. divestation process in the New Mont Corporation, West Nusa Tenggara. These legal problems relate to the deviation of the national budget regulation, UU. No. 19/2012, and the implementation of the divestation process, which infringes PP. No. 50/2007 concerning the Impelementation Procedure of Regional Cooperation, which is an implementation regulation of UU No. 1/2004 on State's Treasury. The cooperation model, have been developed by the Provincial Government, failed to create a permanent legal solution through normative approach. It has merely used practical approach that tends (instant solution), by using some loopholes in the divestation process. The above blunders have accumulated by other secondary legal blunders, i.e. good governance principles, particularly justice, transparency, efficiency, effective principles and competitiveness principle. To solve the above problems, this work offers constitutionalisation of contract that aimed at reviewing and coherencing all deviated contracts, rules and policies that have deprived the national and societies' interest to optimize the strategic natural resources towards the greatest benefit for the greatest number of people..

**Keywords :** constitutionalisation of contract, strategic national resources, divestation, the greatest benefit for the greatest number of people, Indonesian Pancasila values

**Conference Title :** ICLS 2015 : International Conference on Law and Society

**Conference Location :** Paris, France

**Conference Dates :** June 25-26, 2015