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Reconstructing Mining Dispute Resolution in Indonesia Through a Rights-Based MDRG Model

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Abstract

Mineral and coal mining disputes combine private claims with administrative, environmental, safety, and human-rights obligations. This article examines the legal limits of alternative dispute resolution (ADR) where negotiable interests intersect with public duties and the rights of affected communities, including the rights to a healthy environment, information, meaningful participation, and effective remedies. It employs normative legal research using statutory, conceptual, and case approaches. Primary legal materials comprise Indonesian legislation on mining, environmental protection, ADR, regional government, and administrative remedies, together with two Constitutional Court decisions on priority-based mining access; secondary materials comprise peer-reviewed studies and international standards on grievance mechanisms. The materials are examined through grammatical, systematic, and teleological interpretation and harmonisation of jurisdictional norms. The analysis finds that Indonesian law permits civil ADR and voluntary settlement of eligible non-criminal environmental disputes, but excludes environmental crimes and does not allow private agreements to determine licensing validity, suspend enforcement, or extinguish mandatory public duties. The principal procedural weakness is fragmentation between complaint intake, screening, technical verification, representation, settlement review, referral, and monitoring. The article therefore proposes a six-stage Mining Dispute Resolution Governance (MDRG) model that integrates these functions without creating a new institution or transferring statutory powers. MDRG is a normative design; its practical effectiveness requires empirical testing.
Keywords: alternative dispute resolution; human rights; MDRG; mining disputes; multi-level governance; remedial accountability.

A. INTRODUCTION

Mineral and coal mining occupies a complex position in Indonesian natural-resource law. Mining supports state revenue, industrial development, energy security, and the supply of minerals needed for economic transformation. At the same time, mining may alter land use, affect water sources, damage ecosystems, create safety risks, disrupt livelihoods, and change relationships within affected communities. A single operation can therefore generate contractual and compensation claims while also triggering licensing,

environmental, safety, and public-law obligations. The legal problem is not simply how two parties can reach an agreement, but which parts of a conflict may lawfully be negotiated and which duties must remain subject to public supervision and enforcement (Nunan, 2018).

The constitutional dimension is central. Article 28H paragraph (1) of the 1945 Constitution guarantees the right to a good and healthy environment, while Article 33 paragraph (3) requires the state to control natural resources for the greatest prosperity of the people. These provisions frame mining governance as more than a question of investment or contractual balance. Where pollution, land dispossession, unsafe operations, or unequal benefit distribution affect communities, dispute resolution must protect access to information, meaningful participation, environmental restoration, and access to legal remedies. A private settlement cannot be treated as a waiver of constitutional or statutory protections owed to other persons or to the public (Republic of Indonesia, 1945, 2009).

The allocation of mining authority must be described precisely. Article 35 of Law No. 4 of 2009, as amended by Law No. 3 of 2020 and Law No. 2 of 2025, places mineral and coal mining business licensing within the authority of the Central Government, while permitting the delegation of specified licensing powers to provincial governments. Presidential Regulation No. 55 of 2022 implements that delegation for designated standards and permits and assigns related guidance, supervision, and reporting functions to provincial governments. The Governor therefore exercises only the powers expressly delegated; this does not restore general mining-licensing authority to regencies or municipalities. Those governments may nevertheless contribute local information, complaint intake, public services, infrastructure coordination, and spatial or environmental functions within their separate statutory competences. Multi-level governance in this article means functional coordination under the existing allocation of authority, not equal

licensing power at every governmental level (Fagil, 2024; Hadi et al., 2025; Hooghe & Marks, 2003; Lestari, 2026; Nunan, 2018; Utami, 2024; Republic of Indonesia, 2009, 2014a, 2020, 2022, 2025a).

Indonesian scholarship establishes the importance of non-litigation approaches, but the studies differ in their objects, methods, and analytical limits. Safa'at and Qurbani (2017) examine the mining conflict in Lumajang through a case-oriented legal analysis, highlighting land-related conflict and the potential role of ADR in a locally embedded dispute; their study does not develop an integrated procedure for screening mixed private and public claims. Sapar and Syafruddin (2021), using a descriptive household survey and proportional cluster sampling in mining-affected villages in Bombana, analyse community empowerment as a conflict-resolution strategy, rather than the legal allocation of authority or remedies. Ade Kamula and Widiana (2021) use empirical legal research, combining literature and field research through a sociological-juridical approach, to examine people's mining and land-related conflicts in West Lombok; their analysis supports good-faith ADR but does not set out a cross-sectoral referral and monitoring sequence. Haritsa and colleagues (2024) employ a socio-juridical approach to examine mining conflicts in Gorontalo and the role of Dulohupa and local wisdom, including an ultimum remedium orientation. Ikhsan, Sadiani, and Putera (2025) use an empirical socio-legal approach to examine local-government facilitation in a mining-blasting dispute in Barito Selatan, identifying institutional limits after the reallocation of authority under Law No. 23 of 2014. Taken together, these studies illuminate local conflict contexts, empowerment, local dispute practices, and institutional constraints; they do not jointly formulate a legal screening path that separates negotiable claims from administrative and criminal matters, independently verifies disputed technical facts, secures plural community representation, and connects lawful settlements to referrals and post-settlement monitoring (Safa'at &

Qurbani, 2017; Sapar & Syafruddin, 2021; Ade Kamula & Widiana, 2021; Haritsa et al., 2024; Ikhsan et al., 2025).

Other Indonesian studies underline why procedural safeguards matter. Muskibah, Hidayah, and Alissa discuss legal protection for communities affected by coal mining, while Rahayu and colleagues show that contractual clarity in tin mining does not by itself resolve governance and capacity imbalances in corporate–community relations. International literature complements these findings: research on the social license to operate links legitimacy to governance and sustainability; meta-analysis connects procedural fairness with social acceptance; and recent work on critical minerals highlights the distribution of knowledge, environmental burdens, and benefits in the energy transition (Prno & Slocombe, 2012; Pedro et al., 2017; Jin et al., 2024; Zhou & Brown, 2024; Rahayu et al., 2025). Harvey et al. (2024) further identify the importance of mobilising existing legal capacity to strengthen multi-level and cross-sectoral natural-resource coordination. Their institutional analysis supports functional coordination but does not confer new licensing powers. Social legitimacy literature likewise does not substitute for determining the legal forum, competent authority, and available remedies under Indonesian law.

A further line of literature concerns operational grievance mechanisms. The UN Guiding Principles on Business and Human Rights require non-judicial mechanisms to be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and based on engagement and dialogue. The OECD Guidelines similarly encourage effective grievance mechanisms while maintaining access to judicial and other remedies (OECD, 2023; United Nations Human Rights Council, 2011). Recent mining-sector research identifies continuing weaknesses in complaint handling and access to remedy, including limited trust and transparency (Ghebremusse, 2026; Hofmeyr & Wielga, 2026). These standards are relevant

to the design of a rights-respecting process, but they do not determine Indonesian licensing jurisdiction or the legal status of environmental and administrative obligations.

The research gap is therefore both doctrinal and rights-based. Existing studies address mediation, empowerment, local wisdom, authority allocation, social legitimacy, or corporate grievance mechanisms, but have not integrated four questions: how mixed complaints should be screened; how affected groups can participate meaningfully despite unequal capacity; how technical facts should be tested without displacing official supervision; and how settlements can be connected to lawful remedies, referrals, and monitoring. This is a research gap, not a claim that Indonesian law lacks ADR norms. The legal framework already provides several separate entry points: Article 6 of Law No. 30 of 1999 for civil ADR; Articles 84–86 of Law No. 32 of 2009 for voluntary out-of-court environmental dispute resolution; Articles 65 and 70 of that Law for environmental information and participation rights; Government Regulation No. 22 of 2021 for environmental approvals, supervision, and administrative enforcement; the Mineral and Coal Mining Law and Government Regulation No. 96 of 2021, as amended, for mining obligations and supervision; and Articles 75–78 of Law No. 30 of 2014, read with Supreme Court Regulation No. 6 of 2018, for administrative objections, appeals, and access to the State Administrative Court. The gap is the lack of an integrated operational sequence that connects complaint receipt, access to information, environmental mediation, the handling of alleged violations, administrative remedies, and post-settlement monitoring. MDRG proposes procedural harmonisation through guidance or protocols within existing mandates; any additional binding duties or institutional powers would require an appropriate regulatory basis (Republic of Indonesia, 1999, 2009, 2014b, 2018, 2021).

The environmental ADR provisions require particular precision. Article 84 paragraphs (1)–(3) of the Environmental Protection and Management Law permit

environmental disputes to be resolved in or out of court, make the choice voluntary, and allow litigation where the chosen out-of-court process is declared unsuccessful. Article 85 paragraph (1) limits the potential settlement to compensation, restoration, prevention of recurrence, and prevention of adverse environmental impacts; paragraph (2) excludes environmental crimes; and paragraph (3) permits the assistance of mediators and/or arbitrators. Article 86 permits the community to establish an independent and impartial service-provider institution and allows the government to facilitate its formation. These provisions are distinct from Article 6 of Law No. 30 of 1999, which governs civil ADR. Neither regime authorises the parties to extinguish administrative duties, prevent criminal enforcement, or bind non-consenting third parties.

Two Constitutional Court decisions pronounced on 16 July 2026 provide a limited procedural analogy, but they must be distinguished by their subject matter and reasoning. Decision No. 160/PUU-XXIII/2025 reviewed, among other provisions, the priority arrangements in Articles 51(1) and 51(3)–(6), 60(1) and 60(3)–(6), and 75(3), 75(5), and 75(7) of Law No. 2 of 2025, together with related provisions. The Court conditionally interpreted the relevant priority arrangements so that the granting of priority must be based on clear parameters and an objective, transparent, and accountable assessment, rather than an automatic or direct appointment. Its reasoning identified the risk that undefined criteria could leave excessive subjective discretion, create legal uncertainty and unequal treatment, and weaken procedural justice in the management of natural resources (Constitutional Court of the Republic of Indonesia, 2026a, paras. [3.12.1], [3.13.1]–[3.13.2]). Decision No. 202/PUU-XXIII/2025 separately examined the priority arrangements in Articles 51B and 60B, including the wording concerning domestic and global supply chains. The Court considered that the phrase ‘and/or’ could create uncertainty and held that domestic supply-chain needs and value addition must be prioritised before global supply-chain fulfilment,

applying the requirement for clear parameters and objective, transparent, and accountable assessment (Constitutional Court of the Republic of Indonesia, 2026b, paras. [3.13.2], [3.14]). Both cases concern access to mining business areas, not mediation. Their relevance to MDRG is confined to the procedural importance of reasoned and accountable public decision-making; neither creates an ADR rule nor transfers licensing authority to local actors.

Against this background, the article addresses three research questions. First, why are mining disputes inadequately addressed when resolved solely through a bilateral model? Second, what are the legal limits of ADR where private and public dimensions coexist? Third, how can ADR procedures be reconstructed through MDRG to protect participation, access to remedy, and remedial accountability without transferring public authority? The article's contribution is a rights-based procedural design linking legal screening, community representation, independent fact-finding, settlement review, referral, and monitoring. It does not propose a new institution or a new source of licensing or enforcement power.

B. RESEARCH METHOD

This study uses normative legal research to reconstruct dispute-resolution procedures for mineral and coal mining conflicts. The statutory approach examines the Constitution, the Mineral and Coal Mining Law and its amendments, the Environmental Protection and Management Law and its amendments, legislation on arbitration and ADR, regional government, government administration, and relevant implementing regulations. These primary legal materials were selected because they regulate the rights of affected communities, licensing jurisdiction, environmental dispute resolution, administrative remedies, supervision, and enforcement. The analysis uses the consolidated legal framework applicable at the time of writing, including Law No. 6 of 2023, Government Regulations No.

22 of 2021 and No. 96 of 2021 as amended, and Presidential Regulation No. 55 of 2022. The conceptual approach applies multi-level governance, procedural justice, access to remedy, legal protection, and remedial accountability to determine how institutional functions can be coordinated without reallocating statutory powers. The case approach is confined to Constitutional Court Decisions No. 160/PUU-XXIII/2025 and No. 202/PUU-XXIII/2025; each is examined separately in terms of the provisions reviewed, legal issue, operative ruling, and procedural reasoning relevant to public decision-making. References to mining conflicts in Lumajang, West Lombok, Gorontalo, and Barito Selatan are secondary-source illustrations, not cases treated as judicial precedents or original empirical findings. Secondary legal materials consist of peer-reviewed scholarship and international standards selected for their relevance to mining ADR, affected-community protection, grievance mechanisms, and multi-level governance; no tertiary materials were relied upon as an independent analytical basis. The materials were analysed through grammatical, systematic, and teleological interpretation, followed by harmonisation of overlapping norms and jurisdictional mapping. The six MDRG stages were then tested against legality, the rights of affected persons, access to administrative and judicial remedies, and the limits of public authority. The study does not use interviews, surveys, or field observation; MDRG is therefore a normative-conceptual proposal whose implementation and effectiveness remain to be empirically assessed.

C. RESULT AND DISCUSSION

1. Legal Character of Mining Disputes and the Limits of ADR

Mining disputes differ from ordinary civil disputes because one activity can generate several legally distinct claims. A contractor's unpaid invoice or a landholder's compensation claim may be private-law matters. A challenge to the validity of a license or to an official's decision is administrative. Pollution, reclamation, water protection,

blasting safety, and environmental restoration engage environmental and safety obligations. These categories determine the applicable forum and legal consequences. Social and distributional impacts—such as loss of livelihood, unequal access to benefits, effects on women or local workers, and the exclusion of customary groups—are not a fourth legal category at the same level; they are cross-cutting dimensions that must be considered in each category when identifying affected rights, participation needs, and remedies (Safa'at & Qurbani, 2017; Muskibah et al., 2021; Rahayu et al., 2025).

This distinction allows mixed disputes to be classified without forcing them into a single box. A complaint about water quality may include a private claim for loss, a non-criminal environmental dispute concerning restoration, a possible administrative breach, and a separate question about whether the facts disclose an environmental crime. MDRG should therefore use multiple legal labels where required and identify a separate pathway for each claim. Negotiation or mediation may proceed for a lawful compensation or restoration component, while official inspection, emergency response, administrative supervision, or criminal investigation proceeds independently. The existence of ADR must never delay measures required to protect life, health, or the environment.

A hypothetical illustration clarifies the point. Suppose residents of several villages allege that mining-related runoff has affected a river used for household needs and agriculture. Some residents seek compensation for crop losses; others request restoration and a change in operational practices; the company disputes causation; and the regulator must determine whether environmental standards or license conditions have been breached. A bilateral meeting focused only on compensation could leave the alleged pollution and official supervision unresolved. A multi-door process would separately identify private losses, the environmental remedy sought, the need for

independent testing, and any referral to the competent regulator. The example is hypothetical and is used only to explain the normative design.

Article 1 point 10 and Article 6 of Law No. 30 of 1999 provide the legal basis for ADR in civil disputes. The recognised methods include consultation, negotiation, mediation, conciliation, and expert appraisal. Their use depends on the nature of the civil dispute and the parties' agreement. Article 6 paragraph (7) gives a written settlement final and binding effect for the parties who agree to it, requires registration with the competent District Court within 30 days after signature, and requires the agreement to be implemented in good faith. Paragraph (8) requires implementation within 30 days after registration. Registration is not judicial approval of the merits, does not convert the agreement into an administrative decision, and cannot bind non-signatories or extinguish public obligations. These effects must not be attributed to any informal record of facilitated discussions that does not satisfy the statutory requirements.

Environmental dispute resolution follows a related but distinct statutory route. Article 84 of Law No. 32 of 2009 provides a voluntary choice between court and out-of-court settlement and recognises litigation when the selected out-of-court process is declared unsuccessful. Article 85 paragraph (1) limits the matters that may be agreed to compensation, restoration, measures to prevent recurrence, and measures to prevent adverse environmental effects. Paragraph (2) excludes environmental crimes from out-of-court settlement. Paragraph (3) permits mediators and/or arbitrators to assist, while Article 86 recognises independent and impartial service-provider institutions and allows government facilitation of their formation. A mediator facilitates communication and does not issue a binding determination; an arbitrator performs a distinct adjudicative function and may issue an award only where a valid arbitration agreement and the

applicable statutory requirements exist. Neither role gives the actor authority to issue, amend, or revoke a mining license.

Administrative disputes must be channelled through the applicable public-law remedies. Articles 75–78 of Law No. 30 of 2014 provide administrative remedies in the form of an objection and, where the objection is not accepted, an administrative appeal to the superior official. Under Article 77, an objection is generally submitted within 21 working days after the decision or action is announced; the competent body or official must decide it within 10 working days, and statutory consequences follow if no decision is issued within that period. Under Article 78, an administrative appeal is generally lodged within 10 working days after the objection decision is received and must be decided within 10 working days, subject to the statutory consequences of inaction. Article 76 paragraph (3) provides access to the State Administrative Court where the administrative appeal is not accepted. The State Administrative Court framework is also governed by Law No. 5 of 1986, as amended by Law No. 9 of 2004 and Law No. 51 of 2009; Supreme Court Regulation No. 6 of 2018 governs the settlement of government-administration disputes after administrative remedies have been exhausted, subject to any applicable special statutory rule. Article 75 paragraph (3) also provides that the filing of an administrative remedy does not in itself suspend the implementation of the challenged decision or action, except where legislation provides otherwise or suspension is necessary to prevent greater harm. A private mediator cannot replace this sequence or decide the legality of an administrative act (Republic of Indonesia, 1986, 2014b; Supreme Court of the Republic of Indonesia, 2018).

Six boundaries follow. First, parties may negotiate civil claims and eligible environmental remedies within statutory limits, but cannot legalise unlicensed operations or waive mandatory requirements. Second, indicators of environmental

crime, immediate danger, or serious non-compliance require referral and any necessary official action regardless of ongoing negotiation. Third, consent must be free, informed, and uncoerced, supported by accessible information and a real opportunity to understand the consequences. Fourth, representation must reflect the affected population and cannot be inferred from the presence of one community leader. Fifth, facilitators, mediators, arbitrators, service-provider institutions, and technical experts have distinct roles and must not be conflated. Sixth, ADR must not close access to objections, administrative appeals, judicial review, or public enforcement. These limits preserve legality while allowing negotiated remedies where the law permits them (Republic of Indonesia, 1999, 2009, 2014b).

The constitutional and human-rights basis for these safeguards is reinforced by Article 28H paragraph (1) of the Constitution and by the information and participation rights in Articles 65 and 70 of the Environmental Protection and Management Law. Meaningful consent in the MDRG context therefore means a decision made freely, on relevant and comprehensible information, without intimidation or manipulation, by persons with legal capacity or a demonstrable mandate. Community representatives should be selected through an accountable process and their mandate should be recorded. Where the affected population is diverse, the process should identify directly and indirectly affected residents, land-right holders, customary communities, women, local workers, persons with disabilities, and other vulnerable groups where relevant. Dissent and unrepresented interests must be recorded, not treated as waived. Consent by some participants cannot release third parties from rights or displace mandatory environmental duties (Republic of Indonesia, 1945, 2009; United Nations Human Rights Council, 2011).

A company or public agency should provide technical summaries in plain language, disclose information needed to understand the risk, and allow independent legal or technical assistance where substantial imbalance exists. Meetings should be accessible through local languages, appropriate formats, and reasonable accommodation for persons with disabilities. Online and offline channels should be available where possible. Anti-intimidation safeguards and confidential handling of complainant identity may be needed. These safeguards are not additional jurisdictional powers; they operationalise the rights to information, participation, and access to remedy within existing legal responsibilities.

2. The Six-Stage MDRG Model and Allocation of Functions

MDRG is a procedural reconstruction that links the stages before, during, and after ADR. It does not establish a new court, regulator, licensing body, or national coordination hub. Its novelty lies not in inventing mediation, but in connecting complaint intake, jurisdictional screening, lawful negotiation, independent mediation and fact-finding, settlement review, and monitoring through a single rights-based sequence. The six stages are functional rather than rigid: a straightforward contractual claim may end after facilitated negotiation, while a mixed or technically complex dispute may require parallel referral and several stages. Public-law and private-law pathways remain distinct even when they are coordinated.

The table identifies the principal legal basis, actors, and outputs at each stage. It should be read as a coordination map, not as a grant of authority. Existing institutions continue to exercise the powers assigned to them by statute; companies and affected communities contribute information and participate according to their rights and responsibilities.

Table 1.
Stages of the Mining Dispute Resolution Governance (MDRG) Model

Stage	Primary legal basis	Actors and limits of authority	Procedures, outputs, and legal consequences
1. Early identification	Constitution, Article 28H(1); Law No. 32 of 2009, Articles 65 and 70; mining legislation and applicable complaint/supervision rules.	Affected persons, companies, and existing government complaint units. Provincial and local governments receive and relay information only within their statutory functions.	Provide accessible online/offline intake, local-language assistance, disability accommodation, confidentiality where justified, anti-intimidation safeguards, and a receipt/case number. Record affected locations and groups, including cross-village impacts. As a proposed service standard, acknowledge complaints within 3 working days, complete initial screening within 10 working days, and refer urgent safety or environmental risks immediately; these are MDRG proposals, not statutory deadlines. Intake does not suspend operations or alter licences.
2. Institutional screening	Law No. 30 of 1999, Article 6; Law No. 32 of 2009, Articles 84–86; Law No. 30 of 2014, Articles 75–78; Mineral and Coal Mining Law; Government Regulation No. 22 of 2021.	An authorised complaint or supervisory unit, with legal and technical support. Competent officials retain decision and enforcement powers; mediators do not determine jurisdiction or legality.	Screen claimed rights, private/public character, crime indicators, urgent environmental or safety risk, responsible authority, and need for parallel routes. Issue written reasons, identify the receiving authority and referral deadline, and provide a channel to seek review of misclassification within 5 working days; these proposed periods should be adopted only through a lawful administrative guideline. Emergencies and enforcement referrals proceed without waiting for ADR.
3. Facilitated negotiation	Law No. 30 of 1999, Article 6; Law No. 32 of 2009, Articles 84–85 for eligible environmental matters.	Rights-holders or duly authorised representatives and a neutral facilitator. Participation is voluntary and does not bind non-consenting persons.	Use for clear, low-complexity negotiable claims where parties have adequate information and capacity. Discuss compensation, access arrangements, communication, or lawful social commitments. Record agreement or failure. For civil settlements under Article 6 paragraphs (7)–(8), record the settlement in writing, register it with the Registrar of the District

			Court within 30 days after signing, and complete implementation within 30 days after registration; these requirements apply to the settling parties and do not bind non-signatories.
4. Independent mediation and technical fact-finding	Law No. 32 of 2009, Article 85(3) and Article 86; Law No. 30 of 1999, Article 6; applicable environmental testing and supervision rules.	An independent mediator and, where separately appropriate, an arbitrator or independent technical expert. A service-provider institution may administer the process. Their functions must not be conflated.	Use where negotiation fails, capacity is unequal, or material facts are disputed. Disclose conflicts, agree expert selection, publish methods and sampling protocols, maintain chain of custody, and allow parties to respond to draft findings. Expert reports assist dialogue but do not replace official inspections, statutory evidence, or enforcement decisions.
5. Settlement drafting and legal review	Law No. 30 of 1999, Article 6(7)–(8); Law No. 32 of 2009, Article 85; relevant mining, environmental, and civil-law provisions.	Parties and their legal/technical advisers. A competent official acts separately only where an administrative decision or approval is legally required. Mediators do not certify licences or validate government decisions.	Review legal capacity, authority to represent, lawful and sufficiently certain object, consistency with mandatory norms, beneficiaries, resources, deadlines, indicators, reporting, restoration, and escalation. State expressly that the settlement cannot bind third parties, waive criminal enforcement, or extinguish public duties.
6. Post-settlement monitoring	Law No. 32 of 2009, Articles 65, 70–82; mining legislation and implementing supervision rules; the terms of a lawful settlement.	The company performs its obligations; affected groups may monitor and raise concerns; competent mining/environmental officials supervise and enforce under their respective mandates.	Monitor compliance and environmental outcomes through periodic reports and, where necessary, independent verification. Provide access to environmental and safety information, while protecting personal data and legitimate mediation confidentiality. Record objections and impacts on non-signatories. Refer non-compliance to the competent authority; monitoring does not replace official inspection.

Source: Prepared by the author based on the legislation and decisions analysed.

The first stage, early identification, moves the process from a purely reactive model toward early access to remedy. A complaint should not be rejected merely because it is not framed in legal language or submitted by a formally constituted organisation. The receiving unit should record the alleged harm, location, date, persons potentially affected, requested remedy, and available documents, photographs, or environmental information. It should issue a receipt or case number, explain the next step, and provide a safe route for complainants who fear retaliation. Where impacts cross village or district boundaries, the intake unit should identify all relevant locations and forward the complaint to the competent authorities rather than requiring affected persons to submit separate, potentially inconsistent complaints.

The second stage, institutional screening, is the legal core of MDRG. The screening record should identify each right asserted, the legal nature of each claim, urgent risks, possible criminal conduct, the official or institution with statutory competence, and the need for parallel proceedings. The output is a reasoned classification and referral notice, not a decision on the merits. A party should be able to request correction where the complaint has been misclassified. The process must not treat a referral to mediation as a substitute for regulatory inspection or as a reason to postpone emergency action.

The third stage is facilitated negotiation. It is appropriate where the subject matter is sufficiently clear, the parties have legal capacity and adequate information, and the power imbalance can be managed through basic safeguards. The facilitator helps organise discussion and identify possible terms but does not impose an outcome. Independent mediation becomes appropriate where direct negotiation fails, the relationship has deteriorated, the community lacks comparable expertise, or the parties cannot agree on the meaning of the evidence. For mixed claims, negotiation and

mediation may proceed in parallel with administrative assessment or criminal enforcement, provided that no participant is pressured to settle a non-negotiable matter.

The fourth stage separates mediation from technical fact-finding and arbitration. The mediator manages communication, ensures balanced participation, and assists the parties in exploring lawful options. The mediator does not decide liability or certify the legal status of a license. An arbitrator is a separate adjudicative actor whose authority depends on a valid arbitration agreement and the applicable law; arbitration should not be treated as an automatic extension of mediation. An independent technical expert assesses facts such as water quality, vibration levels, land damage, or causal links. The parties should have a role in selecting the expert or approving a neutral appointment mechanism, receive disclosure of any conflict of interest, understand the methods and standards applied, and be allowed to comment on the findings. Sampling location, timing, chain of custody, laboratory accreditation, and uncertainty should be documented. The report is an aid to settlement and may be information for authorities, but it does not bind the regulator or displace official inspection and evidence-gathering powers.

The fifth stage replaces the former expression ‘legal validation’ with settlement drafting and legal review. The parties or their advisers should examine whether the signatories have capacity and authority, whether community representatives have a clear mandate, whether the object is lawful and sufficiently certain, whether the settlement complies with mandatory rules, and whether obligations are measurable and funded. It should identify beneficiaries, implementation steps, deadlines, indicators, reporting duties, independent verification, and escalation routes. A competent official must separately issue any administrative act required by law; neither mediator nor service-provider institution can approve, amend, or revoke a mining license. Under Article 6

paragraphs (7)–(8) of Law No. 30 of 1999, a written settlement is final and binding on the parties, must be registered with the Registrar of the District Court within 30 days after signing, and must be completed within 30 days after registration. Registration must not be described as judicial approval of the settlement's substance, and the agreement cannot bind non-signatories or waive public duties.

The sixth stage monitors both performance and the continued legality of implementation. Reports should be accessible to persons materially affected, not only signatories, subject to privacy and legitimate confidentiality limits. Environmental and safety information should be made available in accordance with applicable law, and material technical claims should be independently verifiable when necessary. Affected persons should be able to object to indicators, report non-compliance, or identify new impacts. If non-signatories are affected, their rights remain intact and the relevant authorities must assess the matter under their statutory powers. A monitoring report is evidence or information for competent officials; it is not itself an administrative sanction or an enforcement decision.

The table's allocation of functions can be summarised as follows. The Central Government retains national mining-policy and licensing powers under the Minerba Law, subject to the specified delegation to provinces. The Governor performs the delegated licensing, guidance, and supervision functions identified in Presidential Regulation No. 55 of 2022. Existing provincial and local units may receive complaints, supply territorial information, and coordinate services according to their legal mandates, but a regency or municipality cannot be treated as a general mining licensing authority. The Ministry of Energy and Mineral Resources (ESDM) and the Ministry of Environment (KLH/BPLH, according to the applicable institutional arrangements) exercise sectoral functions within their respective legal mandates. Companies remain

responsible for lawful operations and performance of valid settlement commitments; communities provide information, participate, and monitor impacts without acquiring public decision-making power.

Table 2.
Functional Responsibility Allocation Under MDRG

Function	Responsible actor(s)	Legal boundary / principal basis
Licensing and administrative decisions	Central Government; Governor only for specifically delegated matters.	Article 35 of the Minerba Law; Presidential Regulation No. 55 of 2022. A mediator, company, community, or regency/municipality cannot assume licensing authority.
Complaint intake and referral	Existing complaint units within competent ministries/agencies, provincial/local governments, and company-level grievance channels.	Intake is a service and information function; it does not itself decide legal liability. Environmental information and participation rights arise under Law No. 32 of 2009.
Facilitation and mediation	Neutral facilitator; independent mediator or impartial service-provider institution.	Voluntary process under Law No. 30 of 1999, Article 6, and Law No. 32 of 2009, Articles 84–86. The mediator facilitates only; an arbitrator is a distinct actor.
Technical verification	Independent experts or accredited laboratories selected through a transparent process; competent officials conduct statutory inspections.	Expert reports assist the parties but do not replace official inspection, statutory evidence, or regulator decisions under environmental/mining rules.
Monitoring and enforcement	Company performs agreed lawful duties; affected persons monitor and submit information; competent regulators and law-enforcement bodies act within their powers.	Settlement monitoring is distinct from administrative supervision, sanctions, criminal investigation, and judicial review under applicable legislation.

Source: Prepared by the author based on the statutory allocation of functions.

3. Remedial Accountability, Community Protection, and Monitoring

MDRG's theoretical contribution is remedial accountability. The term describes a structured link between identifying harm, selecting a remedy that is legally available, assigning responsibility to actors who can lawfully perform it, specifying timeframes and measurable indicators, reporting implementation, and referring non-compliance to the competent authority. It is an analytical standard for assessing whether a remedy can be implemented and reviewed; it is not a new cause of action, jurisdiction, or statutory

power. The legal effect of each remedy continues to derive from the relevant civil, environmental, administrative, or criminal law.

This contribution should be distinguished from three existing approaches. Environmental mediation provides a voluntary forum for eligible environmental disputes and may produce compensation or restoration commitments within Article 85 of the Environmental Protection and Management Law. Dispute-systems design and multi-door approaches direct different claims to the forum best suited to them. Operational grievance mechanisms under the UN Guiding Principles and OECD Guidelines seek accessible, predictable, equitable, transparent, rights-compatible processes and dialogue. MDRG draws on these approaches but adds a specific doctrinal feature: the screening of mixed mining complaints against Indonesian jurisdictional rules, followed by referral to competent public authorities while preserving a lawful negotiated component. Its added proposition is therefore not that mediation alone can resolve mining conflicts, but that procedural coordination must distinguish private remedies, environmental remedies, administrative review, and enforcement before an agreement is treated as a resolution (OECD, 2023; United Nations Human Rights Council, 2011).

The principal risk is procedural capture. A process may be formally open while the company or another powerful participant controls technical information, meeting arrangements, expert selection, or the identity of community representatives. Procedural justice requires opportunities to be heard, neutral treatment, understandable explanations, and respectful participation. It also requires an accountable method for identifying affected interests. The receiving unit should map affected people by location and type of impact, including land-right holders, residents exposed to environmental effects, customary groups, women, local workers, persons with disabilities, and other

vulnerable people where relevant. Community representatives should have a recorded mandate, and the process should retain a record of dissent and interests not represented. A signed list of attendees is not proof that the whole community has consented (Jin et al., 2024; Muskibah et al., 2021).

Meaningful participation should be supported by accessible and timely disclosure. Technical summaries should explain the nature and uncertainty of environmental evidence without replacing the complete reports available to those legally entitled to them. Communities should have a reasonable opportunity to seek independent legal or technical assistance, ask questions, and consult within their groups before accepting terms. Meetings should accommodate local languages, literacy differences, disability access, travel constraints, and the needs of groups whose livelihoods or care responsibilities limit attendance. A participant must not be threatened, deprived of services, or induced to waive unrelated rights. When these conditions cannot be met, the process should be paused or redesigned rather than treating formal consent as sufficient.

Monitoring must extend beyond the agreement's signatories where the impact affects a wider population or environmental resource. A water-restoration agreement, for example, may affect downstream residents who did not participate in the negotiation. Their statutory rights remain unaffected. Monitoring reports should therefore provide meaningful access to the environmental and safety information needed to understand performance, allow objections to the indicators or data, and explain how concerns are referred. Public environmental information must be distinguished from personal data, confidential legal advice, and negotiation communications that may properly remain confidential. Confidentiality cannot be used to conceal pollution, immediate risks, official decisions, or non-compliance with mandatory legal duties.

The quality of fact-finding is central to this form of accountability. The expert should be independent, disclose interests, explain the method, identify limitations and uncertainty, and allow parties to respond. Where samples or measurements are used, the sampling protocol, location, time, custody, laboratory standards, and relevant benchmark should be recorded. A report should not be represented as conclusive proof where methodology is contested or the expert lacks statutory authority. The competent regulator may conduct its own inspection and is not bound by a private expert report. Conversely, private technical information may alert the regulator to a risk that requires official examination.

Evaluation indicators should be presented as proposals for future assessment, not as validated measures of MDRG effectiveness. Process indicators may include the accessibility of complaint channels, the time to acknowledge and classify complaints, written reasons for referrals, the diversity and mandate of participants, access to technical assistance, and disclosure of expert conflicts. Output indicators may include the completion of technical reports, the number and quality of referrals, written agreements containing clear obligations, and monitoring plans with deadlines and resources. Outcome indicators may include performance of restoration and compensation commitments, independently measured environmental conditions, the persistence or recurrence of complaints, the accessibility of judicial remedies, and the experience of affected groups. Monitoring periods should be tailored to the nature of the remedy; a short-term review may check immediate compliance, while environmental restoration may require 6–12 months or a longer period. These indicators require field testing and cannot be used to claim success in this normative study.

A failed or discontinued mediation should not be treated as a failure of the overall system. The process may properly end when the dispute involves a non-

negotiable public duty, when evidence requires official examination, when the parties cannot reach a voluntary settlement, or when continued participation would be unsafe or unfair. The screening record should explain the reason for referral and identify the available administrative, judicial, environmental, or criminal route. This preserves access to remedy and prevents ADR from becoming a gatekeeping step that delays formal protection.

4. Institutional and Policy Implications for Mining Governance

The institutional response should strengthen coordination among existing actors rather than establish a national coordination hub without a clear statutory basis. The Ministry of Energy and Mineral Resources is the appropriate lead for mining licensing and mining-sector supervision within its legal mandate. Environmental matters should be referred to the competent environmental authority, including KLH/BPLH as organised under the applicable government structure. Provincial governments should exercise only the licensing, guidance, and supervision functions delegated by Presidential Regulation No. 55 of 2022, together with other statutory functions. Regency and municipal governments may contribute local information, public services, infrastructure coordination, and complaint handling where their laws provide the relevant competence. A cross-ministerial guideline or protocol may clarify intake, classification, referral, information exchange, and monitoring; it must not transfer powers or create a new decision-maker by implication.

The guideline could be developed through coordination between ESDM and the competent environmental ministry/agency, with the Ministry of Home Affairs and provincial governments involved where regional administration is affected. Any instrument should specify the lead official for each category, referral timeframes, minimum documentation, data-protection safeguards, a process for challenging

misclassification, and a mechanism to report unresolved jurisdictional issues to the competent superior authority. Where an implementation rule is insufficient to provide a necessary legal basis, the proposal should be treated as a matter for regulatory review rather than assumed to exist already. Administrative guidance may standardise procedures, but it cannot amend statutory jurisdiction or limit judicial review.

Energy transition policy makes the rights-based approach more—not less—important. Demand for critical minerals can increase pressure on land, water, ecosystems, and local infrastructure. The distribution of benefits and risks should therefore be examined alongside restoration duties, access to information, participation in decisions affecting local environments, and the rights of future generations. Environmental compensation cannot be treated as a substitute for restoration where restoration is legally required. Knowledge held by communities should be considered in the evidence process, while technically disputed claims should be assessed through transparent methods. This is consistent with the concern for epistemic justice in critical-mineral governance and with the principle that a transition cannot be considered just when its environmental costs are concentrated on communities with limited influence over decision-making (Zhou & Brown, 2024; Jin et al., 2024).

The model also carries implementation risks. Excessive procedural steps could bureaucratise simple disputes; rigid sequencing could delay remedies; unclear roles could intensify jurisdictional conflict; and an unbalanced mediator or expert-selection process could undermine trust. These risks can be reduced by applying the six functions proportionately, maintaining parallel statutory procedures where necessary, recording the basis of referrals, requiring conflict-of-interest declarations, and making settlements measurable. High-risk projects or disputes with cross-village impacts, water pressures,

safety concerns, or recurrent conflict may be prioritised for piloting. Such pilots would be an empirical next step, not proof of current effectiveness.

In comparative terms, MDRG sits between the flexibility of bilateral negotiation and the formal authority of litigation. It does not displace the court's role in reviewing government action, deciding legal liability, or granting remedies under the applicable statutes. It also does not turn corporate grievance mechanisms into a substitute for state remedies. Rather, it offers a legally bounded pathway for determining which issues can be negotiated, which require independent facilitation or fact-finding, and which must be referred to public authorities. Its practical value will depend on whether existing institutions adopt consistent procedures and whether affected people can actually use them without intimidation or loss of legal rights.

D. CONCLUSION

First, mining disputes are inadequately addressed by a purely bilateral model because a single conflict can combine private claims, administrative legality, environmental and safety obligations, and social impacts that cross community groups. Bilateral negotiation may settle a compensation claim but cannot determine license validity, discharge regulatory duties, or bind persons who did not consent. Multi-stakeholder participation is therefore necessary, but must be differentiated according to legal authority, rights, and knowledge.

Second, ADR is legally available for civil disputes under Article 6 of Law No. 30 of 1999 and for voluntary settlement of eligible environmental disputes under Articles 84–86 of Law No. 32 of 2009. Environmental crimes are excluded; administrative decisions remain subject to the remedies and judicial review provided by Law No. 30 of 2014 and the State Administrative Court framework; and emergency response, supervision, and enforcement cannot be waived by private agreement. The legal boundary is therefore defined by the subject matter that may be negotiated and by the continuing force of mandatory public duties.

Third, MDRG reconstructs existing functions through six stages: early identification, institutional screening, facilitated negotiation, independent mediation and technical fact-finding, settlement drafting and legal review, and post-settlement monitoring. Its rights-based contribution is remedial accountability: a documented connection between harm, lawful remedy, responsible actor, timeframe, performance indicators, reporting, and referral. This is a normative coordination design, not a new institution or legal power. ESDM and the competent environmental authority may adopt procedural guidance within their mandates, while provincial and local governments participate only within their statutory functions. The model requires empirical testing to assess accessibility, representation, technical quality, compliance, and the recurrence of disputes.

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