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MIMBAR KEADILAN

Is 'Priority' Just? Rethinking Constitutional Fairness in Indonesia's Mining Law

Abd. Rohman*[1], Rizky Bangun Wibisono[2]
[1]Karabük University, Türkiye
[2]Universitas Islam Negeri Sunan Ampel Surabaya, Indonesia
Author Correspondence: 228213327@ogrenci.karabuk.edu.tr

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Abstract

The governance of natural resources in Indonesia, especially the mining sector, remains a contested legal domain involving intersecting economic, political, and constitutional interests. Article 6 paragraph (1) letter j of Law No. 3/020 grants the central government the authority to designate WIUPK "on a priority basis," raising constitutional questions about its alignment with Article 33 paragraph (3) of the UUD NRI 1945. Critics argue that the vague term "priority" invites discretionary abuse, perpetuates structural inequalities, and potentially legitimizes monopolistic practices in the name of development. This study aims to critically examine the constitutionality and practical implications of the said provision using a normative legal research approach. The method involves statutory analysis, jurisprudential review, and interpretative evaluation of relevant constitutional principles, including distributive justice and economic democracy. The findings suggest that while the provision may be justified as an affirmative policy instrument to promote equitable access to natural resources, its current formulation lacks clear legal criteria, thereby opening space for misuse. The Constitutional Court's Decision No. 77/PUU-XXII/2024 affirms that any prioritization must be grounded in transparent, accountable mechanisms and should reflect the principle of social justice. This decision also signals the importance of inclusive governance, public participation, and state responsibility in preventing legal inequality. Without substantial regulatory reform, the application of "priority" risks contradicting the very essence of constitutional fairness.

1. Introduction

In Indonesia's legal system, the governance of natural resources—particularly in the mining sector—has always represented a strategic domain intersecting legal, economic, social, and political considerations.[1] The authority of the state, as the holder of constitutional mandate over natural resources, is rooted in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which affirms that "the land, the waters and the natural resources within shall be controlled by the state and used to the greatest benefit of the people." This provision not only asserts state control, but also embeds an obligation of distributive justice and equitable access for the broader public.

The enactment of Law Number 3 of 2020 concerning the Amendment to Law Number 4 of 2009 on Mineral and Coal Mining (Law No. 3/2020) marks a significant regulatory shift. Of particular concern is Article 6 paragraph (1) letter j Law No. 3/2020, which authorizes the central government to grant Special Mining Business License Areas (WIUPK) "on a priority

[1] Muhammad Natsir, Andi Hidayat Anugrah Ilahi, and Titien Pratiwi Adnas, "Political and Legal Developments in Mineral and Coal Mining Laws: A Critical Review," *Diponegoro Law Review* 9, no. 2 (October 31, 2024): 186–203, https://doi.org/10.14710/dilrev.9.2.2024.186-203; Hilaire Tegnan et al., "Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues," *BESTUUR* 9, no. 2 (November 24, 2021): 90, https://doi.org/10.20961/bestuur.v9i2.55219.

basis." While ostensibly aimed at streamlining mining governance and enhancing strategic national interest, the use of the phrase "on a priority basis" has raised significant constitutional and ethical questions regarding its compatibility with the principles of social justice and economic democracy.

The central controversy lies in the absence of clear normative guidance on what constitutes "priority," and who qualifies to receive such preferential treatment. The open-ended nature of the phrase creates potential legal ambiguity, which may be exploited as a discretionary tool by the executive branch. This broad discretion risks enabling monopolistic practices, preferential licensing to politically connected entities, and further entrenchment of economic inequality—outcomes antithetical to the constitutional mandate of natural resource governance.

Recent studies have critically explored the governance of natural resources in Indonesia, particularly in the context of the mining sector. Desafitri and Heliaantoro[2] highlight the persistent tension between constitutional mandates under Article 33 UUD NRI 1945 and the practical realities of economic liberalization, noting the difficulty in achieving a sustainable balance between state control and market forces. Similarly, Syavois Allen Wondal et al.[3] emphasize that while Law No. 3/2020 seeks to attract investment, it also generates concern regarding environmental degradation and the erosion of social justice principles. Earlier works, such as Hamzah[4], have already warned that legal policies in this domain increasingly reflect neoliberal tendencies that weaken public access and diminish state authority. More recently, Tampubolon and Hartanto[5] draw attention to the institutional weaknesses that allow corruption and environmental destruction to persist, leading to substantial economic losses and social dislocation.

2. Methods

This study employs a normative legal research method, which refers to the use of legal rules and principles as the basis for analysis.[6] In the context of research on consumer protection in beauty clinics, the normative juridical method relies on applicable laws and relevant theories as primary data. The study will analyze these legal documents and relate them to legal theories regarding dispute resolution. Relevant regulations, such as UUD NRI 1945 and Law No. 3/2020.

3. Results and Discussion

3.1. The Constitutionality of Article 6 Paragraph (1) Letter j of Law No. 3/2020

[2] Linda Desafitri RB and Heliaantoro Heliaantoro, "Analysis of Natural Resources Contracts Related to Article 33 Paragraph 2 and Paragraph 3 of the 1945 Constitution," *Siber Journal of Advanced Multidisciplinary* 2, no. 2 (September 30, 2024): 302–11, https://doi.org/10.38035/sjam.v2i2.216.
[3] Nancy Syavois Allen Wondal, Fauzie Yusuf Hasibuan, and Phattarawadee Rungsimanop, "The Law of Natural Resources Management for Economic Prosperity: A Critical Analysis of Law No. 3 of 2020 on Mineral and Coal Mining," *International Journal of Contemporary Sciences (IJCS)* 1, no. 12 (October 30, 2024): 952–63, https://doi.org/10.55927/ijcs.v1i12.12044.
[4] Herdiansyah Hamzah, "Legal Policy of Legislation in the Field of Natural Resources in Indonesia," *Hasanuddin Law Review* 1, no. 1 (April 19, 2016): 108, https://doi.org/10.20956/halrev.v1i1.218.
[5] Steven Paulus Hamonangan Tampubolon and Hartanto Hartanto, "Problematika Perubahan Undang-Undang Tentang Mineral Dan Batu Bara," *Jurnal Hukum Dan Sosial Politik* 2, no. 3 (May 10, 2024): 1–16, https://doi.org/10.59581/jhsp-widyakarya.v2i3.2991.
[6] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2016).

The provision stipulated in Article 6 paragraph (1) letter j of Law No. 3/2020 has raised several fundamental questions regarding its constitutionality. This provision grants the central government the authority to offer WIUPK on a priority basis, which is closely tied to the principle of state control as stipulated in Article 33 paragraph (3) of the UUD NRI 1945. As a component of the legal framework governing the management of natural resources, Article 6 paragraph (1) letter j Law No. 3/2020 holds a significant position in determining how mining—one of Indonesia's strategic natural resources—may be managed to realize the constitutional mandate of maximizing public welfare. Within the legal system, Article 33 paragraph (3) of the UUD NRI 1945 positions the state as the holder of control over natural resources located within Indonesian territory.[7] The phrase "controlled by the state" has long been interpreted by the Constitutional Court, notably in Decision Number 001-021-022/PUU-I/2003, as a form of control that encompasses not only physical ownership, but also the authority to regulate, manage, and supervise the utilization of such resources. Therefore, Article 6 paragraph (1) letter j of Law No. 3/2020 must be analyzed within the normative framework of the principle of state control, which prioritizes justice and the prosperity of the people. The Constitutional Court, in Decision Number 77/PUU-XXII/2024, paid particular attention to the relationship between the provision in Article 6 paragraph (1) letter j and the principle of social justice as set forth in Article 33 paragraph (3) of the UUD NRI 1945. The Court's legal reasoning in this case centered on the interpretation of the phrase "on a priority basis" as used in the provision. The Court affirmed that the principle of state control does not permit interpretations that could result in discrimination or exclusivity in the exploitation of natural resources.[8] In this regard, the government's authority to determine priorities must be exercised in a transparent and accountable manner, and must be guided by the principles of justice and the broader national interest.

The Constitutional Court has provided an important observation that the determination of priorities in mining management must reflect the spirit of economic democracy as enshrined in Article 33 of the UUD NRI 1945. This constitutional provision outlines that the management of natural wealth must be directed toward the greatest possible prosperity of the people.[9] The legal norms underpinning mining governance policy, including Article 6 paragraph (1) letter j Law No. 3/2020, serve a strategic role as instruments to support the realization of social justice. Nevertheless, this provision has become a point of legal contention when its application is perceived to result in social inequality and the monopolization of power. In Decision Number 77/PUU-XXII/2024, the Constitutional Court asserted that the central

[7] M.Y. Aiyub Kadir and Alexander Murray, "Resource Nationalism in the Law and Policies of Indonesia: A Contest of State, Foreign Investors, and Indigenous Peoples," *Asian Journal of International Law* 9, no. 2 (July 21, 2019): 298–333, https://doi.org/10.1017/S204425131900002X; Suparto Suparto, "Interpreting The State's Right to Control In the Provisions of Article 33 Paragraph (3), The Constitution of 1945 Republic of Indonesia," *UIR Law Review* 4, no. 2 (October 25, 2020): 1–8, https://doi.org/10.25299/uirlrev.2020.vol4(2).6889.

[8] Rifandy Ritonga et al., "Hak Negara Untuk Mengontrol Sumber Daya Alam Di Indonesia: Review Putusan Mahkamah Konstitusi," *As-Siyasi: Journal of Constitutional Law* 1, no. 2 (December 7, 2021): 1–13, https://doi.org/10.24042/as-siyasi.v1i2.11343.

[9] Ivan Ferdiansyah Agustinus, "Mineral and Coal Mining Business and Management in Indonesia from the Indonesian Constitutional Viewpoint," *Journal of World Science* 1, no. 7 (July 20, 2022): 500–510, https://doi.org/10.36418/jws.v1i7.68.

government bears the obligation to ensure that affirmative policies in mining governance do not infringe upon the people's right to equitably benefit from the nation's natural wealth. Affirmative policy in this context should be interpreted as a form of state intervention aimed at redistributing resources to reduce socio-economic inequality. The provision under Article 6 paragraph (1) letter j Law No. 3/2020 should not be understood merely as conferring preferential treatment to certain groups, but rather as a strategic effort to create a balanced distribution of mining proceeds, while upholding the principle of distributive justice. The principle of economic democracy, as stipulated in Article 33 of the UUD NRI 1945, constitutes the constitutional foundation for the management of natural resources in Indonesia. Article 33 paragraph (3) UUD NRI 1945 explicitly states that the earth, water, and the natural resources contained therein shall be controlled by the state and utilized for the greatest benefit of the people.[10] This principle affirms that natural resources are not to be controlled by a select few or specific interest groups, but must serve as instruments for the realization of collective welfare. The Constitutional Court's interpretation of this principle reinforces the state's duty to ensure that any policy regulating the mining sector aligns with the spirit of economic democracy. However, the implementation of the principle of economic democracy is often confronted by challenges in practice. Affirmative policies that prioritize specific groups, if not grounded in clear and objective legal principles, may inadvertently foster socio-economic inequality. The Constitutional Court emphasized that such policies must be based on rational, proportional, and constitutionally legitimate reasons, in line with the state's broader goal of achieving social justice. Affirmative action should never be construed as a tool to legitimize power monopolies, but rather as a mechanism to ensure that natural wealth is distributed fairly to all citizens. Criticism of Article 6 paragraph (1) letter j Law No. 3/2020 has emerged from various quarters, particularly within academic and legal discourse. The provision is seen as potentially enabling monopolistic practices and the concentration of natural resource control in the hands of select groups. Viewed through the lens of welfare state theory, this provision may be seen as conflicting with the state's responsibility to guarantee the welfare of all citizens.[11] Welfare state theory emphasizes the state's obligation to intervene in economic policy to ensure that the outcomes of development are distributed fairly.[12] Accordingly, affirmative policies must reflect the principle of distributive justice, whereby resources are allocated based on need, contribution, and capacity.[13] The Constitutional Court, in Decision Number 77/PUU-XXII/2024, underscored the importance of the distributive justice principle in formulating affirmative policies. Policies that solely benefit specific groups without considering the needs of the broader public stand in contradiction to the spirit of economic

[10] F Arsil and Q Ayuni, "Understanding Natural Resources Clause in Indonesia Constitution," *IOP Conference Series: Earth and Environmental Science* 940, no. 1 (December 1, 2021): 012040, https://doi.org/10.1088/1755-1315/940/1/012040.
[11] Hans-Werner Sinn, "A Theory of the Welfare State," *The Scandinavian Journal of Economics* 97, no. 4 (December 1995): 495, https://doi.org/10.2307/3440540.
[12] Kevin Farnsworth, "The Political Economy of Social-Corporate Welfare States," in *Social versus Corporate Welfare* (London: Palgrave Macmillan, 2012), 22–74, https://doi.org/10.1057/9780230361539_2.
[13] Hwok-Aun Lee, "Social Justice and Affirmative Action in Malaysia: The New Economic Policy after 50 Years," *Asian Economic Policy Review* 18, no. 1 (January 17, 2023): 97–119, https://doi.org/10.1111/aepr.12404.

democracy and social justice as enshrined in Article 33 of the UUD NRI 1945. Consequently, affirmative action in mining governance must be designed in a manner that fosters equitable distribution of natural wealth and mitigates socio-economic disparity. The principle of social justice, as articulated in Article 33 of the UUD NRI 1945, demands that the state manage natural resources prudently and equitably. This principle encompasses not only economic considerations but also the social and environmental impacts of public policy. The provision under Article 6 paragraph (1) letter j Law No. 3/2020 must therefore be understood as part of a broader state effort to strike a balance between individual, group, and collective interests. Any approach that prioritizes economic utility over social justice contravenes the constitutional ethos of economic democracy that governs natural resource management in Indonesia. Decision Number 77/PUU-XXII/2024 carries significant legal implications for the state's mining governance framework. It mandates that the central government conduct a comprehensive evaluation of any legal norms that may generate socio-economic disparities. The ruling provides a solid legal foundation for the public to challenge affirmative policies deemed to undermine the common good. Transparency and public participation are essential elements in shaping affirmative policies that truly reflect the interests of the wider society. The Constitutional Court emphasized that public participation is a fundamental manifestation of the principle of economic democracy. In the context of mining governance, public participation serves as an effective mechanism to ensure that government policies reflect the aspirations and interests of the people.[14] It also legitimizes affirmative policies and functions as a form of social control to prevent the abuse of power in natural resource management. The prioritization of interests in mining governance must therefore reflect the spirit of economic democracy as mandated by Article 33 of the UUD NRI 1945. If implemented according to the principle of distributive justice, the provision under Article 6 paragraph (1) letter j Law No. 3/2020 holds the potential to support the realization of social justice.

The regulation granting "priority" to certain parties in the management of mineral resources must be analyzed not only in terms of its constitutionality but also from the perspective of its effectiveness in realizing the objectives of a welfare state. Provisions that establish such priority frequently attract criticism, as they are often perceived to create opportunities for the abuse of power, including practices of corruption, collusion, and nepotism. These criticisms align with the perspectives of critical legal theory, which emphasizes how the law is often employed as an instrument of legitimization for the interests of particular groups, thereby failing to embody the principle of substantive justice as envisioned under Article 33 of the UUD NRI 1945. The concept of "priority" as stipulated in legal norms must rest on a robust and objective foundation to avoid subjective interpretations that may be detrimental to the public interest. Such subjectivity runs counter to the principle of distributive justice, which underscores the importance of managing natural resources in a

[14] Johanna Jarvela, Andre Spicer, and Ville-Pekka Sorsa, "From Stakeholder to Rightsholder – Principles of Inclusion and Participation in Mining Governance," *Academy of Management Proceedings* 2022, no. 1 (August 2022), https://doi.org/10.5465/AMBPP.2022.15925abstract; Anna Erwin et al., "Centering Community Voices in Mining Governance," *Society & Natural Resources* 35, no. 10 (October 3, 2022): 1043–62, https://doi.org/10.1080/08941920.2022.2053018.

manner that prioritizes the needs of the most disadvantaged segments of society.[15] Accordingly, any policy that confers priority must be based on clear and measurable criteria, including contributions to the broader public welfare and the demonstrable capacity to manage resources sustainably. Failure to meet these criteria may constitute a violation of the principle of social justice, which stands as a central objective in the governance of natural resource exploitation.

The Central Government bears a significant responsibility to ensure that the affirmative policies embedded in the relevant legal provisions are not merely compliant with formal legal requirements, but also function substantively to advance social justice. In reference to the theory of responsive law as articulated by Philippe Nonet and Philip Selznick[16], the law should not serve solely as an instrument of power, but rather as a means to respond to the needs and aspirations of society. This implies that affirmative policies must be accompanied by transparent and accountable oversight mechanisms to ensure that the parties granted priority genuinely contribute to the realization of social justice. Moreover, any legal norm that grants preferential treatment must be formulated with due regard to the principle of checks and balances, in order to prevent the abuse of authority. This is consistent with the tenets of modern legal theory, which emphasizes the necessity of oversight by independent institutions and the meaningful participation of the public in the policymaking process. Public participation is not only essential for generating social legitimacy, but also for ensuring that the adopted policies are aligned with the actual needs of the broader society.

From the perspective of welfare state theory, the management of natural resources must be understood as a concrete manifestation of the State's responsibility to uphold justice and preserve harmony among human beings, nature, and the law.[17] The three core principles—efficiency, justice, and sustainability—are not merely technical constructs but rather normative foundations that reflect a conception of law as an instrument for realizing the moral aspirations of society[18]. Natural resource management constitutes a legal arena wherein individual, collective, and ecological interests converge within a framework of just harmony.[19] The principle of efficiency in the management of natural resources reflects the endeavor to uphold the law as a medium of instrumental rationality. Efficiency demands that resource utilization be conducted optimally—not solely to maximize economic benefits but also to conform to the normative value of appropriateness that underpins human action within a legal order. Efficiency, therefore, is not merely a technical or economic matter, but an ethical

[15] Petra Gümplová, "Normative View of Natural Resources—Global Redistribution or Human Rights–Based Approach?," *Human Rights Review* 22, no. 2 (June 13, 2021): 155–72, https://doi.org/10.1007/s12142-021-00615-3.
[16] Teja Sukmana, "Responsive Law and Progressive Law: Examining the Legal Ideas of Philip Nonet, Philip Selznick, and Sadjipto Raharjo," *Peradaban Journal of Law and Society* 2, no. 1 (June 18, 2023): 92–105, https://doi.org/10.59001/pjls.v2i1.82.
[17] Chris Armstrong, *Justice and Natural Resources*, vol. 1 (Oxford University Press, 2017), https://doi.org/10.1093/oso/9780198702726.001.0001.
[18] Nikmah Fitriah, "Legal Principles of the Utilization of Natural Resources," *Jurnal Wasaka Critical Law Review* 1, no. 1 (September 2, 2020): 79–98, https://doi.org/10.48171/jwh.v1i1.22.
[19] Satriya Nugraha, "Natural Resource Management Principles and the Role of Law in Realizing Good Development Governance," *Journal of Progressive Law and Legal Studies* 2, no. 01 (December 31, 2023): 49–58, https://doi.org/10.59653/jplls.v2i01.575.

imperative to ensure that natural resources are neither squandered nor misused, but are utilized with a full awareness of the individual's moral responsibility toward fellow human beings and future generations. This aligns with the view of law as an institution that guides human behavior toward public virtue. On the other hand, the principle of sustainability reflects a conception of law as the guardian of intergenerational justice. Sustainability embodies a philosophical meaning: that natural resource governance must balance the interests of present generations with the rights of those yet to be born. In relation to natural law theory, this principle underscores humanity's obligation to safeguard the integrity of creation as a sacred trust. Sustainability articulates a dialectical relationship between positive law and the universal values underpinning it, whereby legal norms must harmonize with ecological principles that support life holistically.[20] As such, sustainability in natural resource management is the concrete realization of ecological justice. Meanwhile, the principle of justice in resource management leads to the very essence of law—namely, the pursuit of equity and balance in the distribution of benefits. Justice, in this context, is not limited to ensuring that individuals receive what is rightfully theirs, but extends to the creation of a legal structure capable of addressing social inequalities and ensuring that collectively owned natural wealth is truly shared by all. Natural resource governance must be viewed as a legal undertaking aimed at transforming economic potential into a socially just reality.[21] This resonates with the Aristotelian notion of distributive justice, wherein the law is tasked with allocating benefits under each individual's needs and contributions to society. However, in practice, natural resource governance is frequently mired in a paradox between legal ideals and political realities. Criticism of Article 6(1)(j) Law No. 3/2020 of the relevant legislation reveals that the provision tends to disregard the principle of justice by granting disproportionate advantages to particular groups without a fair redistribution mechanism. This inequity reflects a distortion in the application of social justice principles as enshrined in Article 33(3) of the UUD NRI 1945. Such phenomena may be understood as a failure of law to fulfill its function as an instrument of substantive justice. Law, in this sense, must not only regulate but also rectify structural injustices entrenched within society. Article 33(3) of the UUD NRI 1945, which proclaims that "the land, the waters, and the natural resources therein shall be controlled by the State and utilized for the greatest benefit of the people," stands as a normative declaration imbued with profound philosophical meaning. It reflects a vision of law as the expression of the collective will to realize social justice. This vision entails that the State bears both a moral and juridical responsibility to ensure that natural resource management is not solely driven by economic profit, but is also oriented toward the realization of the common good.[22] Accordingly, the law in the context of natural resource management must be understood as a vehicle for transforming moral values into practical realities that can be tangibly experienced by all citizens.

The practice of natural resource exploitation by large corporations frequently serves as a tangible example of the law's failure to fulfill its role as a guardian of justice. While the

[20] Nugraha.
[21] Fitriah, "Legal Principles of the Utilization of Natural Resources."
[22] Agustinus, "Mineral and Coal Mining Business and Management in Indonesia from the Indonesian Constitutional Viewpoint."

economic contributions of these corporations may be substantial, the benefits are often inequitably distributed, with local communities disproportionately bearing the burden of environmental degradation. This situation reveals a disjunction between law as an ideal normative framework and law as it operates in practice. To address this discrepancy, a more holistic and transformative legal approach is required—one in which law functions not only as a regulatory instrument but also as a means of empowering communities to actively participate in the management of natural resources. As a concrete measure, the State must strengthen the regulatory framework governing natural resource management by incorporating the principle of substantive justice. Such a framework should be capable of balancing economic, social, and ecological interests, ensuring that the benefits derived from natural resource management are equitably enjoyed by the entire population. Moreover, transparency and accountability must be prioritized in the governance of natural resources, enabling the public to monitor and evaluate whether the law is implemented under its foundational principles.[23] Public participation is also a critical component of natural resource management grounded in the principle of distributive justice. The law must provide adequate space for community involvement in decision-making processes, particularly those that directly affect the lives and livelihoods of the people. This participation should not be merely procedural but must be substantive—ensuring that communities have an active role in shaping the direction of natural resource governance. In this regard, law serves as a medium for dialogue between the State and the people, fostering a relationship that is both harmonious and mutually reinforcing. Accordingly, natural resource management guided by the principles of efficiency, justice, and sustainability must be seen not merely as a technical or administrative task, but as a philosophical commitment to the realization of substantive justice. The management of natural resources thus reflects the human endeavor to construct an order in which law operates as an instrument for achieving the moral ideals of society. For this reason, the spirit of Article 33 paragraph (3) of UUD NRI 1945 must remain a guiding principle, ensuring that the management of natural resources is genuinely directed toward the greatest possible prosperity of the people within a framework of substantive justice. The affirmative policy stipulated in Article 6 paragraph (1) letter j Law No. 3/2020 raises both philosophical and legal concerns regarding the principle of equality before the law—a foundational tenet of Indonesia's legal system. Article 27 paragraph (1) of the UUD NRI 1945 unequivocally affirms that all citizens are equal before the law and government. This principle reflects not merely a formal conception of justice but embodies the essence of constitutional democracy, which places law at the core of collective life. Any legal norm granting priority to particular groups must be carefully formulated to avoid contravening this foundational spirit of equality. The principle of equality before the law derives from a universal notion of justice, as articulated in Aristotelian theories of distributive and commutative justice. Although affirmative policies may appear to conflict with the formal principle of equality, they can be justified when based on objective and rational grounds, and when aimed at rectifying structural inequalities within society. Affirmative policies should thus be understood as a form of corrective justice, designed to address historical or systemic injustices experienced by

[23] Nugraha, "Natural Resource Management Principles and the Role of Law in Realizing Good Development Governance."

certain groups. Nevertheless, in the absence of a robust legal foundation and transparent implementation, such policies risk engendering reverse discrimination, thereby undermining the legitimacy of the law itself.

The Constitutional Court, as the guardian of the Constitution[24], has consistently emphasized that any affirmative policy must adhere to the principle of substantive equality before the law, rather than merely formal equality. In its previous rulings, the Constitutional Court has affirmed that affirmative action measures must be guided by a clear objective, demonstrable proportionality, and must not exceed the necessity required to achieve their stated goals. This illustrates that affirmative policies which are not grounded in the principle of substantive justice risk violating constitutional mandates and undermining the spirit of national unity. In addition to the principle of justice, transparency in both the formulation and implementation of affirmative action policies constitutes a crucial element to ensure that such policies are not exploited as tools for the benefit of specific interest groups.[25] In line with the theory of responsive law, the legal system must be capable of responding to the needs of society while maintaining a careful balance between individual and collective interests. Accordingly, the affirmative policy articulated in Article 6 paragraph (1) letter j of Law No. 3/2020 must be subject to a transparent decision-making process, allowing public scrutiny and enabling civil society to evaluate and monitor its implementation. The constitutionality of Article 6 paragraph (1) letter j of Law No. 3/2020 is thus highly contingent upon how the provision is operationalized in practice. As a legal instrument, this norm possesses the potential to contribute meaningfully to equitable mining governance if implemented under the principles of transparency, accountability, and sustainability. However, in the absence of adequate oversight mechanisms, the provision also carries the risk of exacerbating social and economic disparities, in direct contradiction to the spirit of Article 33 paragraph (3) of the UUD NRI 1945. In this regard, the central government bears a significant responsibility to design policies that not only address immediate needs but also contribute to the realization of long-term and sustainable social justice. Without effective control and accountability, affirmative action may degenerate into a form of institutionalized discrimination, contrary to the principles of constitutionalism and the rule of law. As a fundamental pillar of the welfare state, law must serve as an instrument for advancing equality and justice—not a mechanism that reinforces inequality and systemic injustice. Through its jurisprudence, the Constitutional Court has provided valuable guidance to ensure that this legal norm remains within the constitutional framework and supports the attainment of social justice, which stands as one of the foundational aspirations of the Indonesian nation.

3.2. The Constitutional Court's Interpretation of the Phrase "On a Priority Basis" in Mining Governance

[24] Suharno Suharno, Amir Junaidi, and Muhammad Aziz Zaelani, "Embodying the Meaning of the Guardian of the Constitution in the Role of the Constitutional Court of Reducing Constitutions Indicated by Policy Corruption," *International Journal of Educational Research & Social Sciences* 2, no. 3 (June 29, 2021): 592–99, https://doi.org/10.51601/ijersc.v2i3.88.

[25] Suwari Akhmaddhian, Ria Virigianti, and Erga Yuhandra, "The Law Enforcement Factors in Waste Management to Achieve Environmental Sustainability and Community Welfare," *Substantive Justice International Journal of Law* 4, no. 1 (May 23, 2021): 15, https://doi.org/10.33096/substantivejustice.v4i1.109.

The Constitutional Court's interpretation of the phrase "on a priority basis" in the context of mining governance constitutes a significant issue addressed in Decision Number 77/PUU-XXII/2024. This phrase, as stipulated in Article 6 paragraph (1) letter j of Law No. 3/2020, grants authority to the Central Government to designate certain parties as priority recipients of WIUPK. In performing its constitutional mandate as the guardian of the Constitution, the Constitutional Court employed multiple methods of legal interpretation—namely grammatical, historical, and teleological approaches—to ensure that the meaning ascribed to the phrase remains consistent with the constitutional spirit, particularly as enshrined in Article 33 paragraph (3) of the UUD NRI 1945. This interpretive exercise underscores the Court's role in aligning statutory provisions with the broader constitutional principles of social justice, equitable resource distribution, and state control over natural resources for the greatest benefit of the people.

The grammatical approach adopted by the Constitutional Court in interpreting the phrase "on a priority basis" began with a linguistic analysis of the literal meaning of the term. The word priority refers to something that is granted precedence or placed ahead of other considerations. However, the Court did not confine its analysis to a merely literal understanding. As the institution charged with safeguarding the constitutionality of legal norms, the Constitutional Court emphasized that the interpretation of this phrase must be consistent with broader legal principles, including the principles of justice, legal certainty, and the constitutional objectives of the welfare state as enshrined in Article 33 paragraph (3) of the UUD NRI 1945. The Court's progression from a purely grammatical interpretation to a more systematic and teleological approach reflects its effort to situate legal norms within a comprehensive legal framework. Progressive legal theory highlights that law is not a static text to be interpreted solely based on its literal meaning, but rather a dynamic and responsive instrument that must serve the evolving needs of society.[26] Consequently, the phrase "on a priority basis" must be understood as a legal mechanism intended to promote distributive justice in the management of natural resources. Such an interpretation prevents absolutist readings and mitigates the risk of abuse of authority.

From the perspective of responsive law, legal norms must be designed and implemented with rigorous oversight mechanisms to prevent potential abuses.[27] Accordingly, the phrase "on a priority basis" must not be construed as granting the Central Government an unfettered privilege, but rather as a regulatory instrument that ensures mining management is conducted in a fair and accountable manner. Furthermore, the principle of substantive justice constitutes a fundamental basis in interpreting this phrase. A policy that accords certain parties priority status can only be justified if it aims to improve the position of disadvantaged groups without infringing upon the fundamental rights of others. Thus, the interpretation of "on a priority basis" must reflect a commitment to achieving inclusive social justice, in alignment with the mandate of Article 33 paragraph (3) of the UUD NRI 1945, which establishes natural resources as a collective asset to be managed for the greatest possible prosperity of the people.

[26] Mardona Siregar, "Teori Hukum Progresif Dalam Konsep Negara Hukum Indonesia," *Muhammadiyah Law Review* 8, no. 2 (August 3, 2024), https://doi.org/10.24127/mlr.v8i2.3567.
[27] Rosalind Dixon, "The New Responsive Constitutionalism," *The Modern Law Review* 87, no. 4 (July 22, 2024): 799–832, https://doi.org/10.1111/1468-2230.12853.

Through a historical approach, the Constitutional Court sought to trace the regulatory trajectory that underpinned the formulation of Article 6 paragraph (1) letter j of Law No. 3/2020. This inquiry was aimed at understanding the original intent of the legislature, as well as the socio-economic and political context in which the provision was conceived. Based on its analysis, the Constitutional Court identified that the provision was originally intended as an affirmative measure for certain groups or entities deemed to hold strategic roles in the management of natural resources. Philosophically, such affirmative action aligns with the spirit of Article 33 paragraph (3) of the UUD NRI 1945, which conceptualizes natural resources as instruments to promote the greatest possible prosperity of the people. However, the Court observed that during the legislative process, the provision evolved in a manner that was not entirely consistent with its original objectives. The phrase "on a priority basis" has effectively transformed into a legal instrument that grants broad discretion to the Central Government in determining the parties entitled to such priority. The absence of clear criteria within this regulatory framework carries the potential to foster inequitable distribution of benefits, which may be exploited for particular interests—whether by individuals or groups with close ties to governing authorities. Legally, such a condition stands in opposition to the principle of substantive justice as mandated by the Constitution.

Furthermore, the Constitutional Court emphasized that historical interpretation must not be divorced from the principle of constitutional legality, particularly in relation to the requirement of legal clarity (*lex certa*). The absence of clear criteria for determining priority opens the door to potential deviations that contradict the rule of law and the principle of a state governed by law, as enshrined in Article 1 paragraph (3) of the UUD NRI 1945. A legal norm that grants broad discretion without explicit limitations risks fostering abuse of power and undermines the concept of distributive justice, which lies at the core of natural resource management. The Constitutional Court also underscored that legal norms must incorporate the principles of transparency and accountability. Therefore, the Central Government must ensure that the implementation policies derived from Article 6 paragraph (1) letter j Law No. 3/2020 do not merely fulfill formal requirements but also embody substantive justice. Any affirmative policy must be accompanied by oversight mechanisms to guarantee that the distribution of benefits is equitable and aligned with constitutional objectives. The historical approach adopted by the Court reflects the view that the legal meaning of the phrase "on a priority basis" must return to its original intent—namely, as an affirmative tool aimed at promoting social justice. This principle aligns with the doctrine of pacta sunt servanda, which requires that legal norms respect and reflect their foundational purpose. Moreover, this approach resonates with the teleological method of interpretation, which views the law as a means to achieve specific ends, in this case, social justice, equitable distribution, and sustainable management of natural resources.

The teleological approach adopted by the Constitutional Court in interpreting the legal provisions related to mining governance reflects an effort to achieve broader constitutional objectives, namely social justice and the equitable and sustainable utilization of natural resources. This approach underscores the view that mining management must not be limited to the exploitation of natural resources for economic gain, but must also be oriented towards

the fulfillment of people's rights, particularly within the framework of social justice.[28] As a constitutional value embedded within the Indonesian legal system, the principle of social justice requires that the distribution of benefits derived from mining activities should not serve only a privileged few but must be equitably shared across all segments of society. The Constitutional Court emphasized that in interpreting the phrase "on a priority basis", a narrow understanding that privileges certain interest groups must be avoided. Interpreted broadly and substantively, the phrase carries profound implications for how natural resources ought to be managed. In a teleological perspective, "on a priority basis" does not merely denote prioritizing a single group's interest; rather, it should ensure that the benefits from mining governance are enjoyed by all Indonesians, with particular attention given to marginalized communities who have historically lacked adequate access to such resources. Furthermore, the Constitutional Court underscored the importance of state control over natural resources as a constitutional mandate that must be upheld. Mining governance, therefore, must reflect national interests, particularly in meeting the basic needs of the population and in ensuring equitable development across the entire archipelago.[29] Although mining activities may contribute to national economic development, such contributions must not come at the expense of the people's right to a healthy and sustainable environment. The Constitutional Court holds that mining must be managed with full regard to sustainability, not only in terms of resource use but also in the context of environmental protection. The implementation of these principles demands that mining policies extend beyond short-term profit motives, and instead focus on long-term sustainable development and social justice.[30] According to the Constitutional Court, socially just mining governance must encompass community empowerment, the creation of employment opportunities, and equitable distribution of benefits, with special consideration for communities that have long been marginalized in resource-related decision-making and benefit-sharing.

The Constitutional Court Decision No. 77/PUU-XXII/2024, concerning the phrase "on a priority basis", places significant emphasis on the importance of the principles of transparency and accountability in mining governance, as integral components of the implementation of Article 33 paragraph (3) of the UUD NRI 1945. The Constitutional Court declared that the Central Government is under a constitutional obligation to establish clear, objective, and publicly accessible criteria in determining which entities or individuals may be deemed priority beneficiaries in the management of mining resources. In this context, transparency is a fundamental element that ensures that all decisions made by the government or relevant authorities are open to legal and social scrutiny.[31] Moreover, accountability constitutes a core principle that must be implemented in the governance of natural resources. All decisions must be made in a publicly justifiable manner, with the provision of effective oversight mechanisms,

[28] Eddy Pelupessy, "Implementation of Mining Management and Enterprise Policies Based on the Principles of Social Justice and Community Welfare," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 22, no. 3 (January 15, 2024): 694, https://doi.org/10.31941/pj.v22i3.3950.
[29] Pelupessy.
[30] Pelupessy.
[31] Shera Cipta Ramdini, "Putusan Mahkamah Konstitusi Dalam Pengelolaan Energi Dan Sumber Daya Mineral Dalam Perspektif Teori Sistem Hukum," *Savana: Indonesian Journal of Natural Resources and Environmental Law* 1, no. 01 (May 3, 2024): 9–16, https://doi.org/10.25134/savana.v1i01.34.

both internal and external, in order to prevent abuse of power or corrupt practices. This requirement aims to ensure that the management of mineral resources truly delivers the maximum benefit for the welfare of the people, in line with the constitutional mandate, and that every action taken by the government remains answerable to the people as the ultimate holders of sovereignty in the State.[32]

The Constitutional Court's analysis of the interpretation of the phrase "on a priority basis" in Decision No. 77/PUU-XXII/2024 centers on the relationship between priority subjects—namely State-Owned Enterprises (SOEs) or Regionally-Owned Enterprises (ROEs), and community organizations. In the view of the Court, SOEs and ROEs hold a strategic role in the governance of mineral resources due to their status as direct representations of the State. As institutions managed by the government, they are presumed to possess both the capacity and legitimacy to manage natural resources, including mining operations, in a manner oriented toward achieving the people's prosperity, as mandated by the Constitution. Accordingly, in the constitutional framework for mining governance, SOEs/ROEs are to be regarded as primary subjects entitled to receive prioritization under such policies. However, the Constitutional Court raised concerns regarding the extension of similar prioritization to community organizations. Based on its analysis, although community organizations may play a meaningful role in supporting social and economic development, they cannot be equated with SOEs/ROEs in terms of their capacity or institutional accountability in managing strategic natural resources. The Court emphasized that without adequate oversight mechanisms, granting such prioritization to community organizations could generate disparities, particularly when such organizations lack the technical, financial, or administrative capacity comparable to that of SOEs/ROEs. Therefore, the Court affirmed that where community organizations are to be included as priority recipients, the criteria for such designation must be clear, stringent, and transparent. These criteria must be founded upon objective considerations and demonstrable positive contributions to social justice. Transparency in the process of determining priority recipients is essential to ensure that government policy does not disproportionately benefit certain parties, but rather serves the broader interests of society. Extending prioritization to community organizations that do not meet rigorous standards risks exacerbating socio-economic inequalities among different segments of the population. For that reason, the Court underscored the need for robust oversight and accountability in all decisions related to the governance of mineral resources.

The Constitutional Court's interpretation of the phrase "on a priority basis" carries significant implications for the governance of mineral resources in Indonesia. By emphasizing the principle of social justice, the Court establishes clear limits on the authority of the Central Government in determining who is entitled to be prioritized in mining governance. This interpretation fosters the creation of more accountable public policy, wherein decision-making processes must be justifiable not only from a legal standpoint but also from a social perspective. The formulation of implementing regulations aligned with this interpretation is expected to prevent abuses of power that could harm society—particularly marginalized communities who have historically been excluded from equitable access to the benefits of

[32] Marilang Marilang, "Ideologi Welfare State Konstitusi: Hak Menguasai Negara Atas Barang Tambang," *Jurnal Konstitusi* 9, no. 2 (May 20, 2016): 259, https://doi.org/10.31078/jk922.

natural resources. Furthermore, this interpretation signals a shift toward greater public participation in decision-making processes relating to mineral resource management. The Court reminds that mining policies must reflect the aspirations and needs of the people, particularly those directly affected by mining activities. Consequently, the Central Government is encouraged to engage the public at every stage of the decision-making process to ensure that resulting policies are genuinely oriented toward the well-being of the people and embody the values of social justice enshrined in the Constitution. The interpretation of the phrase "on a priority basis" thus extends beyond narrow economic interests and instead aims to realize a system of natural resource management that is fair, transparent, and accountable. The Constitutional Court's interpretation of this phrase demonstrates a strong commitment to the principles of social justice and the State's constitutional authority over natural resources.[33] Through a combination of grammatical, historical, and teleological approaches, the Court has identified the meaning of the phrase within the framework of the Constitution and has delineated clear constraints on the discretionary powers of the Central Government. This interpretation not only provides legal certainty, but also ensures that mineral resource governance delivers the greatest possible benefit to the Indonesian people as a whole. Accordingly, this decision stands as a milestone in the development of mining law in Indonesia and serves as an essential reference for the government in formulating more equitable and sustainable policies.

3.3. Legal Aspects of the Risk of Discrimination in Affirmative Policies in the Mining Sector

Affirmative policies in the mining sector, as stipulated in Article 6 paragraph (1) letter j of Law No. 3/2020, give rise to a range of legal implications, particularly concerning the risk of discrimination in their implementation. This provision, which grants priority to certain groups in the management of mineral and coal resources, requires careful examination in the context of the principle of equality before the law and the principle of social justice as mandated by the UUD NRI 1945. The prioritization of specific groups through affirmative policies essentially constitutes a manifestation of the State's effort to realize distributive justice as a corrective mechanism for longstanding structural inequalities. Such affirmative measures are grounded in the necessity of providing special, temporary treatment to disadvantaged or marginalized groups to ensure substantive equality within a pluralistic society. However, the implementation of affirmative policies presents serious challenges, particularly if not guided by the principle of *freies Ermessen* exercised responsibly, and if not aligned with the principle of legal certainty. The concept of *freies Ermessen* allows public officials discretionary authority in situations not fully regulated by existing legislation.[34] Nevertheless, the exercise of such discretion must always remain subject to fundamental legal principles, including the principles of legality, proportionality, and accountability, to prevent potential abuse of

[33] Marilang.
[34] Evi Purnamawati and Hijawati Hijawati, "Freies Ermessen Dalam Pemerintahan Indonesia," *Solusi* 20, no. 1 (January 1, 2022): 98–109, https://doi.org/10.36546/solusi.v20i1.529; Mohamad Fasyehhudin, "Freies Ermessen Dalam Tindakan Nyata Di Pemerintah Daerah," *Jurnal Ius Constituendum* 8, no. 1 (March 10, 2023): 69, https://doi.org/10.26623/jic.v8i1.6250; Hilma Lathifah and Aldri Frinaldi, "Analisis Mengenai Diskresi Dengan Freies Ermessen," *Al-DYAS* 3, no. 2 (April 1, 2024): 581–89, https://doi.org/10.58578/aldyas.v3i2.2852.

authority. The absence of clear and measurable criteria in the use of discretion may lead to negative discriminatory practices that ultimately contradict the very purpose of the affirmative policy itself. This poses the risk of creating new forms of injustice for other legal subjects who are, in principle, entitled to equal treatment under the law.

A lack of prudence in formulating affirmative policies may result in significant legal implications, particularly with respect to the principle of legal certainty. Article 28D paragraph (1) of the UUD NRI 1945 explicitly guarantees that every person shall have the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. Affirmative policies that are not grounded in an equivalent legal foundation, and that are not implemented with adequate transparency and accountability, may be deemed to violate this constitutional principle. Consequently, such policies may be subject to judicial review through administrative courts, as they may be construed as infringing upon the rights of other legal subjects who are excluded from the granted priority. Furthermore, the implementation of affirmative policies that disregard the principle of responsible freies Ermessen can give rise to horizontal conflict within society. Differential treatment that lacks a basis in objective and legally accountable parameters may lead to perceptions of discrimination. Such perceptions may erode the justice-based legal order and threaten social stability. Accordingly, it is imperative for policymakers to ensure that the exercise of discretion in affirmative policy-making not only addresses urgent social needs but also remains strictly within the boundaries of clear and established legal norms. In addition, the risk of abuse of authority—such as corruption, collusion, and nepotism—becomes a tangible threat if affirmative policies are not accompanied by robust oversight mechanisms. Decision-making processes that are opaque and lack accountability may cause legal harm, both to individuals adversely affected and to the legitimacy of governmental institutions. The absence of well-reasoned justifications may lead to the perception that affirmative policies are inconsistent and undermine the principle of equality before the law, one of the fundamental pillars of the rule of law.

Affirmative policies are, in principle, intended to redress structural inequalities experienced by certain groups within society. However, the implementation of such policies may give rise to legal conflicts between the affirmative norms themselves and the principle of social justice as enshrined in Article 33 paragraph (3) of the UUD NRI 1945. Should affirmative policies confer benefits exclusively upon specific groups without regard to their broader societal impact, they risk contravening the principle of social justice, which forms the core of Article 33 paragraph (3) of the UUD NRI 1945. This incongruity can trigger legal issues, both at the normative and implementation levels. At the implementation level, the potential for legal conflict becomes more pronounced when affirmative policies are enforced without transparent, accountable, and participatory procedures.[35] Transparency and accountability are fundamental principles that the government must uphold in all decision-making processes,

[35] Michael Lockwood et al., "Governance Principles for Natural Resource Management," *Society & Natural Resources* 23, no. 10 (August 23, 2010): 986–1001, https://doi.org/10.1080/08941920802178214.

particularly in the governance of resources that have widespread implications.[36] When priority groups are designated unilaterally, without sufficient public consultation, the legitimacy of such policies becomes subject to challenge. Violation of the principle of participation, as guaranteed by Article 28C paragraph (2) of the UUD NRI 1945, may create a legal opening for aggrieved parties to bring claims before administrative courts or other legal forums. Moreover, affirmative policies that prioritize certain societal groups or organizations may also conflict with other regulatory frameworks, such as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. If an affirmative policy is formulated without due consideration for the principle of fair competition, it may be construed as a form of covert monopoly. For example, the granting of preferential rights to certain community organizations in the management of mineral resources—without an open and competitive selection process—may be perceived as a barrier to other business actors possessing comparable capacity and competence. Such a situation not only disadvantages non-priority actors but also undermines the principles of equity and justice in the management of natural resources. On the other hand, the lack of a comprehensive design in affirmative policy may result in negative consequences, including the abuse of power by those involved in decision-making processes. The absence of stringent oversight mechanisms heightens the risk of corruption, collusion, and nepotism—ultimately eroding public trust in government institutions and violating the principles of good governance.

The Constitutional Court, in exercising its function as the guardian of the Constitution[37], has issued a significant affirmation regarding the limits of affirmative policies within the mining sector. The Court emphasized that affirmative policies must be narrowly tailored to prevent the emergence of new forms of unconstitutional discrimination. In its ruling, the Court underscored that such policies must not disregard the principle of equality before the law and the principle of social justice, and must be grounded in clear, objective, and legally accountable criteria. The Court further highlighted the critical importance of effective oversight in the implementation of affirmative policies. The government is obliged to develop transparent and accountable monitoring mechanisms to ensure that the benefits of affirmative action are genuinely experienced by the broader public and are not distorted by the interests of specific groups. This implies that public participation in the formulation and implementation processes of such policies is essential in safeguarding their legitimacy and societal acceptability.[38]

In light of the foregoing considerations, the risk of discrimination arising from affirmative action policies in the mining sector may be mitigated through an approach grounded in the principles of social justice and equality before the law. The government must formulate affirmative policies upon a robust legal foundation, supported by measurable criteria and transparent procedures. In this manner, affirmative action can serve as a legitimate

[36] Francisca Kusi-Appiah, "Sustainable Natural Resource Governance in Ghana: An Appraisal of Legal Provisions on Public Participation and Accountability," *African Journal of International and Comparative Law* 31, no. 1 (February 2023): 32–54, https://doi.org/10.3366/ajicl.2023.0433.
[37] Suharno, Junaidi, and Zaelani, "Embodying the Meaning of the Guardian of the Constitution in the Role of the Constitutional Court of Reducing Constitutions Indicated by Policy Corruption."
[38] Pelupessy, "Implementation of Mining Management and Enterprise Policies Based on the Principles of Social Justice and Community Welfare."

instrument for achieving equitable redistribution of benefits without compromising the fundamental principles of the rule of law. The Constitutional Court, through Decision No. 77/PUU-XXII/2024, has provided clear guidance to ensure that affirmative action policies remain within constitutional boundaries, thereby supporting the constitutional mandate to promote the greatest possible prosperity for the people, as enshrined in the 1945 Constitution of the Republic of Indonesia.

4. Conclusions

The legal norm stipulated in Article 6 paragraph (1) letter j of Law No. 3/2020 raises significant constitutional concerns. The phrase "on a priority basis," which constitutes the core of this provision, requires interpretation and implementation consistent with the principle of social justice as enshrined in Article 33 paragraph (3) of the UUD NRI 1945. Constitutional Court Decision No. 77/PUU-XXII/2024 has imposed important limitations on the authority of the Central Government, emphasizing the necessity of mechanisms that ensure transparency, accountability, and distributive justice in the implementation of this norm. Criticism of this provision primarily centers on its potential for abuse, including monopolistic practices, unequal distribution of benefits, and misuse of authority. Affirmative policies that confer priority to specific entities must be formulated based on objective, rational, and transparent criteria in order to prevent discrimination or exclusivity that would contravene the spirit of economic democracy. In this regard, the government bears the responsibility of ensuring that such prioritization policies function as instruments for advancing social justice, rather than serving as mechanisms to legitimize monopolies or the concentration of resource control by particular groups. The Constitutional Court's approach, which incorporates grammatical, historical, and teleological analyses, demonstrates that the phrase "on a priority basis" must be interpreted holistically in order to strike a balance between individual, societal, and state interests. However, the normative ambiguity and the lack of oversight mechanisms in the application of this policy present major challenges that require urgent attention. Without adequate regulation and supervision, this norm risks violating the principle of substantive justice, which lies at the heart of natural resource governance. Article 6 paragraph (1) letter j of Law No. 3/2020 holds the potential to serve as a legal instrument for promoting public welfare if implemented under the principles of transparency, accountability, and distributive justice. Nevertheless, the success of this implementation depends heavily on the government's commitment to consistently uphold constitutional mandates, as well as on the involvement of the public as a means of oversight and active participation in the management of natural resources. Therefore, a policy reform oriented toward the principle of social justice is necessary to ensure that the governance of mineral resources truly serves the greatest benefit of the people, as mandated by Article 33 of the UUD NRI 1945.

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