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MIMBAR KEADILAN

Ecological Justice and Beneficial Ownership in Mining Concessions for University

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Abstract

The Fourth Amendment to Indonesia's Mining Law through Law Number 2 of 2025 introduced a priority mechanism for granting Mining Business License Areas to companies cooperating with universities, giving rise to University-Owned Business Entities (BUM-PT) as a new subject in the national mining law system. This study examines the legal standing of BUM-PT as a recipient of mining concessions under existing regulations, and evaluates whether the beneficial ownership structure of BUM-PT aligns with the principle of ecological justice in natural resource management. Using normative legal research with statutory and conceptual approaches, this study finds that BUM-PT lacks explicit normative recognition in the mining law regime, as no regulation specifically governs its definition, formation mechanism, supervisory system, or legal accountability, creating a legal vacuum and disharmony between mining law and higher education law. Analyzed through Public Trusteeship Theory and Economic Analysis of Law, the current regulatory framework fails to reflect distributive, recognition, or participatory justice, as no mechanism guarantees beneficial owner transparency, protection of affected communities, or public participation in mining oversight. Regulatory harmonization integrating mandatory beneficial owner disclosure, profit allocation for the Tridharma functions, environmental protection, and community participation is urgently needed to ensure BUM-PT's involvement in the mining sector remains consistent with Article 33(3) of the 1945 Constitution.

1. Introduction

The Indonesian Constitution places natural resource management as part of the state's mandate to achieve the people's prosperity. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. From the perspective of economic constitutional law, the phrase "controlled by the state" is not interpreted as private ownership, but rather as the state's authority to regulate, manage, administer, and supervise the use of natural resources for the public interest. Mineral and coal mining is one of the strategic sectors that directly implements this constitutional mandate because it has a significant contribution to state revenues as well as a major impact on the environment and society. Management of this sector is not only related to economic aspects alone, but is also closely related to ecosystem protection and justice for future generations.[1]

The regulation of mining business activities in Indonesia has experienced quite dynamic developments, particularly through Law Number 4 of 2009 concerning Mineral and Coal Mining, which has been amended several times until the fourth amendment through Law Number 2 of 2025. This regulatory reform not only strengthens risk-based licensing

[1] Muhammad Rifqi Hamidi Tuti Widtaningrum, "Pertambangan Mineral Dan Untuk," *Iblam Raw Jurnal* 4, no. September (2024).

governance but also expands the scope of legal subjects who can be involved in the management of mineral and coal resources. One development that has attracted attention is the emergence of a policy of granting Mining Business Permit Areas on a priority basis to business entities that collaborate with universities. This policy indicates a shift in the political orientation of mining law, which is no longer solely directed at increasing investment, but is also used as an instrument to support the financing of higher education. The presence of University-Owned Enterprises (BUM-PT) as entities that have the potential to become mining concession holders is a new phenomenon that requires separate legal study.

BUM-PT has not received an explicit definition in mining or higher education laws and regulations, unlike State-Owned Enterprises or Regionally-Owned Enterprises, each of which has been specifically regulated. Law Number 12 of 2012 concerning Higher Education authorizes universities to establish business entities as part of non-academic autonomy, but does not regulate the position of these business entities in the mining legal regime.[2] This ambiguity creates a serious legal vacuum because the granting of mining concessions involves the management of natural resources, which constitutionally must be implemented based on a clear legal basis. Furthermore, there is a disharmony between the mining legal regime, which focuses on resource exploitation, and the higher education legal regime, which positions universities as non-profit academic institutions. When state-owned enterprises BUM-PT are granted access to mining areas, fundamental questions arise as to whether the existing legal framework provides sufficient certainty for all parties involved, including communities directly impacted by mining activities.

Several previous studies have addressed issues related to this theme from varying perspectives. Cahyani examines the potential for irregularities in mining business permits for community organizations under Government Regulation No. 25 of 2024 and concludes that affirmative action policies for non-business entities have the potential to lead to governance distortions and transparency issues.[3] Hartato, Armiwulan, and Aristo examined the priority offering of WIUPK to community organization business entities from the perspective of the principles of benefit and impartiality, and found that there were regulatory imbalances that did not take into account the interests of other business entities proportionally.[4] Mazjah specifically examines the legal obstacles to granting mining business permits to universities based on Indonesian positive law and concludes that there is not yet an adequate legal basis for placing universities as subjects directly receiving permits.[5] These three studies have not addressed the issue of who actually benefits from natural resource exploitation through state-

[2] S. Supratiwi A. N. Saputra, "Evaluasi Pengelolaan Perguruan Tinggi Negeri Badan Hukum (PTNBH) (Studi Kasus Universitas Diponegoro Dan Universitas Negeri Semarang)," n.d.

[3] Adinda Agis Fitria Cahyani, "Potensi Penyimpangan Izin Usaha Pertambangan Ormas Dalam Peraturan Pemerintah Nomor 25 Tahun 2024 Potential Irregularities Of Public Organizations' Mining Business Licenses In Government Regulation No 25 Of 2024," *Jurnal Hukum Lex Generalis* Vol.4., no. 11 (2023): 1–17.

[4] Michelle Hartato, Hesti Armiwulan, and Erly Aristo, "Analisis Prinsip Kemanfaatan Dan Ketidakberpihakan Dalam Penawaran Wilayah Izin Usaha Pertambangan Khusus Secara Prioritas Kepada Badan Usaha Organisasi Masyarakat" 5, no. 1 (2026): 610–18.

[5] R Muhamad Ibnu Mazjah, "Mining Business Licenses for Universities : Legal Barriers Under Indonesian Positive Law" 16, no. 2 (2025): 129–40.

owned enterprises BUM-PT, nor have they comprehensively analyzed the policy's compliance with the principles of ecological justice.

This research begins with two interrelated questions. First, what is the legal status of universities as subjects related to mining concession recipients within the framework of applicable laws and regulations, given that these regulations are still scattered and have not yet formed a comprehensive norm. Second, whether the beneficial owner mechanism in state-owned enterprises BUM-PT that obtain mining concessions reflects the principles of ecological justice in natural resource management, particularly when viewed from the dimensions of benefit distribution, recognition of community rights, and public participation. The relevance of these two issues has become increasingly prominent with the enactment of Law Number 2 of 2025, which expands access for university-related business entities to mining areas without adequate regulations regarding transparency of corporate control and accountability for the utilization of the proceeds. This study is expected to contribute to the development of mining legal policies that not only ensure legal certainty but also align with the constitutional mandate for fair and sustainable natural resource management.

2. Methods

This research uses a normative legal research method, namely research that focuses on the analysis of legal norms, legal principles, and legal doctrines to address the legal issues raised. The approaches used include a statute approach and a conceptual approach. The statutory approach is applied to examine all regulations related to mineral and coal mining, higher education, and corporate governance, starting from the 1945 Constitution of the Republic of Indonesia, Law Number 4 of 2009 and its amendments to Law Number 2 of 2025, Law Number 12 of 2012, Government Regulation Number 96 of 2021, Government Regulation Number 25 of 2024, and Presidential Regulation Number 13 of 2018. The conceptual approach is used to examine the theoretical framework that serves as the analytical tool, namely the Public Trusteeship Theory and Economic Analysis of Law, as well as legal concepts such as beneficial owners, ecological justice, and separate legal entities. The results of this normative legal research are prescriptions regarding the legal issues raised, not descriptions of empirical facts on the ground.

The legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations and Constitutional Court Decision Number 190/PUU-XXIII/2025. Secondary legal materials include scientific journals, law books, research findings, and academic articles related to mining law, higher education law, corporate governance, and ecological justice. The legal materials were collected through inventory and categorization methods, while the analysis employed normative techniques by systematically examining the legal materials and linking them to the legal issues focused on in the research.

3. Results and Discussion

3.1. Legal Status of BUM-PT as Subjek Receiving Mining Concenssions Based on Statutory Regulations

The granting of mining concessions to business entities in the Indonesian legal system is based on the constitutional mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which places the state in control of the land, water, and natural

resources for the greatest prosperity of the people. The State's right to control is not interpreted as private ownership, but rather as the authority to regulate, manage, administer, and supervise the use of natural resources for the public interest.[6] Within this framework, the fourth amendment to Law Number 4 of 2009 through Law Number 2 of 2025 concerning Mineral and Coal Mining brings about a significant shift in legal political orientation.[7] The regulation establishes a priority mechanism for granting Mining Business Permit Areas to business entities collaborating with universities, signaling that mining policy is no longer solely focused on increasing investment and state revenue, but also on strengthening funding for higher education. However, universities are not positioned as direct permit holders, but rather as beneficiaries through collaborative relationships with the business entities receiving the permits.

BUM-PT, as an entity that emerged from this policy, has not yet received an explicit definition in any legislation. Unlike State-Owned Enterprises, which are regulated by Law Number 19 of 2003 and Regionally-Owned Enterprises, which are regulated by Law Number 23 of 2014 concerning Regional Government, there is no single legislation that specifically provides a definition of BUM-PT.[8] The legal basis for its existence can only be drawn from the provisions of non-academic autonomy of higher education, specifically Article 65 paragraph (3) letter f of Law Number 12 of 2012 concerning Higher Education which grants the right to State Universities with Legal Entities to establish business entities and develop endowment funds. This provision places the establishment of business entities not as the main objective, but as an instrument to support funding independence in the framework of implementing the Tridharma of Higher Education. Thus, the existence of BUM-PT relies more on institutional practices than on complete normative recognition in the national legal system. The absence of an explicit statutory definition of BUM-PT carries significant juridical implications beyond the mere lack of conceptual clarity. First, it creates legal uncertainty as to the allocation of rights and obligations. Without a normative definition, it is unclear whether BUM-PT should be treated as a private legal entity subject to the general corporate law regime, as a public entity subject to state finance and audit rules, or as a hybrid entity that combines public mission with private legal form. This ambiguity directly affects the rights it may hold, the obligations it must fulfill, and the legal instruments it may use in conducting its activities. Second, the applicable liability regime becomes uncertain. If BUM-PT is considered a purely private entity, liability is borne by the entity itself as a separate legal person, and the university as shareholder is insulated from direct liability. However, because the entity is established using university assets and for the purpose of supporting the university's public mission, questions arise as to whether the state may be held financially responsible for losses incurred by the entity, or

[6] Detania Sukarja Aulia, KevinBudiman Ginting, Mahmul Siregar, "Implementation of Mineral and Coal Mining Licensing In Indonesia After Presidential Regulation of 2022" 4, no. September (2024).
[7] Adinda Agis Fitria Cahyani, "Potensi Penyimpangan Izin Usaha Pertambangan Ormas Dalam Peraturan Pemerintah Nomor 25 Tahun 2024 Potential Irregularities Of Public Organizations' Mining Business Licenses In Government Regulation No 25 Of 2024."
[8] Afifudin Nur Rosyid Astinda, Wahyu Pujo Pratama, and Muhammad Bagas Haidar, "Konflik Regulasi Dan Masalah Kelayakan Pada Kebijakan Izin Usaha Pertambangan Bagi Ormas Keagamaan (Regulatory Conflicts and Feasibility Issues in the Policy of Mining Business Permits for Religious Organizations)," *Jurnal USM Law Review* 7, no. 3 (2024): 5–11.

whether university assets may be subject to execution. The lack of a statutory definition leaves these questions unresolved, creating risks for both the university and third parties who transact with BUM-PT. Third, the oversight and accountability mechanisms are likewise unclear. State-Owned Enterprises and Regionally-Owned Enterprises are subject to specific supervisory regimes, including ministerial oversight, parliamentary reporting, and audit by the Supreme Audit Agency. In contrast, BUM-PT has no comparable dedicated oversight framework. It is not automatically subject to the audit of the Supreme Audit Agency unless state capital participation or state asset management is involved, and the reporting obligations to the university as shareholder are governed only by general corporate law. This gap creates a risk of unsupervised commercial activity conducted with university assets and under the university's name, thereby undermining public accountability and good governance.

Therefore, the problem is not merely that the law does not define BUM-PT; the deeper issue is that this definitional vacuum produces legal consequences that affect the entity's capacity, liability, and accountability. Legal reform should therefore address not only the formal recognition of BUM-PT as a legal subject, but also the substantive rules governing its rights, obligations, liability, and oversight, so that the entity can operate with legal certainty without compromising its public mission. If a BUM-PT is established as a Limited Liability Company in accordance with Law Number 40 of 2007 as amended by Law Number 6 of 2023, the business entity obtains the status of an independent legal entity. The principle of separate legal entity emphasizes that the company's assets, rights, and obligations are separate from its founders, including from universities as shareholders. The company's organs, consisting of the GMS, the Board of Directors, and the Board of Commissioners, carry out management and supervisory functions independently, while the university's influence on company policy can only be exercised through the GMS mechanism. This legal entity status grants the BUM-PT the legal capacity to carry out legal acts, own assets, file lawsuits, and become a party to legal relations with the state. However, fulfilling the elements of a legal entity in the private legal regime does not in itself provide legitimacy as a subject receiving a mining concession in the public legal regime of mining.[9]

The Mineral and Coal Mining Law and its amendments use the term "business entity" as the subject of business permits without providing a classification based on the characteristics of the founding institution. However, the absence of an explicit mention of BUM-PT does not, by itself, imply that such an entity is excluded from the scope of the Mining Law. Under administrative law principles, where a statutory provision employs the general term "business entity," all entities satisfying the statutory criteria are, in principle, encompassed within its scope unless expressly excluded by law. Therefore, the central legal issue is not whether BUM-PT is recognized as a separate category of legal subject, but whether a university-owned limited liability company falls within the statutory definition of a business entity under the Mining Law and, if so, whether the priority allocation of a Mining Business Permit Area

[9] Padjadjaran Law Review, "Tinjauan Yuridis Pemberian Izin Kepada Ormas Keagamaan Dalam Usaha Pertambangan Mineral Dan Batubara Berdasarkan Peraturan Pemerintah Nomor 25 Tahun 2024 Geby Bernike * , Devi Ervina Nusyamsiah ** , Shannia Angelia Rahardjo ***" 12 (2024): 157–70, https://doi.org/10.56895/plr.v12i2.1813.

(WIUP) was intended to extend to such an entity. [10] To address this issue, it is necessary to examine the definitional elements of a business entity under the Mining Law. The Mining Law defines a business entity as any legal entity engaged in mining activities established under Indonesian law and domiciled within the territory of Indonesia. A BUM-PT established as a Limited Liability Company under Law Number 40 of 2007, as amended by Law Number 6 of 2023, satisfies these criteria: it is a legal entity, it is established under Indonesian law, and it is domiciled in Indonesia. Accordingly, in terms of legal form and capacity, a university-owned limited liability company qualifies as a business entity under the Mining Law.

The interpretive question that then arises concerns the scope of the priority mechanism for WIUP. The norms established by Law Number 2 of 2025 emphasize a cooperation mechanism between business entities and universities as beneficiaries of priority in the allocation of WIUP. The provision does not expressly limit the term "business entity" to state-owned enterprises, regionally-owned enterprises, or private entities. Consequently, if a university-owned limited liability company meets the statutory criteria of a business entity and the university satisfies the statutory requirements as a beneficiary, there is no normative basis to exclude such an entity from the priority mechanism. The proper legal question is therefore one of statutory interpretation: whether the phrase "business entities collaborating with universities" in the WIUP priority provision is intended to include universities' own business entities or only third-party business entities collaborating with universities. This is a different legal question from that of the entity's legal status, and it requires a careful analysis of the legislative intent and the systematic relationship between the Higher Education Law and the Mining Law. Thus, the conclusion of legal uncertainty is not unfounded solely because BUM-PT is not expressly mentioned; rather, legal uncertainty arises, if at all, from the ambiguous scope of the priority provision in relation to universities' own business entities. The analysis must therefore focus on the interpretation of the WIUP priority mechanism, not on the formal recognition of BUM-PT as a separate legal category.[11]

Law Number 12 of 2012 concerning Higher Education positions universities as institutions oriented toward providing education, research, and community service. Article 63 emphasizes that university autonomy must be implemented based on the principle of non-profit, meaning that profits earned must be reallocated to support the implementation of the Tridharma, rather than distributed as is the orientation of commercial companies.[12] This law does not regulate the oversight mechanism for business entities that carry out high-risk activities such as mining, nor does it explain the limits of responsibility of universities for the legal impacts arising from the activities of the business entities they own.[13] The difference in character between the extractive industry, which is oriented towards the exploitation of natural resources, and the basic function of higher education as an academic institution, shows

[10] Sultan Adam et al., "Principles of Good Mining Practice in the Priority WIUP Scheme : A Case Study of PT Vale Indonesia Tbk from the Perspective of the 2025 Mining Law," 2026.
[11] Dimas Maulana Pratama, Desy Pratiwi, and Nabilla Oktavia Lestari, "Konflik Agraria Dan Keadilan Ekologis: Tinjauan Hukum Atas Hak Masyarakat Adat Terhadap Tanah Ulayat," *Indonesian Journal of Law and Justice* 3, no. 2 (2025): 10, https://doi.org/10.47134/ijlj.v3i2.5248.
[12] Aris Sugianto et al., "Tata Kelola Perguruan Tinggi Negeri Di Indonesia" 6, no. 3 (2024): 89–101.
[13] Nanda Ilma, "Pengendalian Pendirian Perguruan Tinggi Sebagai Upaya Pemenuhan Hak Atas Pendidikan Dan Pengajaran" 5, no. 4 (2022): 1511–34, https://doi.org/10.20473/jd.v5i4.37342.

a fundamental lack of synchronization in institutional orientation, and this lack of synchronization is one of the sources of regulatory disharmony between the two legal regimes.

Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities regulates general business entity requirements without providing specific provisions for BUM-PTs. Administratively, BUM-PTs in the form of Limited Liability Companies can essentially meet formal requirements such as complete establishment documents, a Business Identification Number, and the company's organizational structure.[14] However, mining activities also require technical, environmental, and financial capabilities that are not inherently inherent in the characteristics of BUM-PT as a business entity established to support the provision of education. Government Regulation 25 of 2024, which subsequently amended the previous Government Regulation, only extends the priority mechanism to business entities owned by religious community organizations without explicitly mentioning BUM-PT, even though both share similar characteristics as entities established by institutions whose primary function is not to carry out commercial activities. This difference in treatment emphasizes that BUM-PT has not received adequate normative recognition in the implementing regulations for mining.[15]

The absence of comprehensive regulations regarding BUM-PTs within the overall regulations analyzed indicates a serious legal vacuum. There are no laws and regulations that define BUM-PTs, regulate the mechanism for their formation as mining business actors, determine their oversight system, or define the limits of their liability in the event of environmental violations or disputes with the community.[16] This situation opens up room for differing interpretations in practice and has the potential to lead to overlapping supervisory authority between the ministry overseeing energy and mineral resources and the ministry overseeing higher education. Regulatory disharmony between the mining and higher education legal regimes is evident not only in differing normative orientations but also in the absence of a bridging norm capable of providing certainty regarding the position of state-owned enterprises BUM-PT when the two legal regimes intersect.

BUM-PT legally has the capacity as a legal subject if established as a legal entity, but this capacity does not provide complete legitimacy as a subject receiving a mining concession. The lack of norms regarding the definition, legal status in the mining regime, formation mechanism, supervisory system, and accountability of BUM-PT creates legal uncertainty that has three implications. First, the legal relationship between the state, universities, and business entities is not fully defined so that there are no clear normative guidelines for all parties. Second, the involvement of universities in the mining sector through BUM-PT has the potential to create conflicts of interest that can shift academic independence if not accompanied by a clear separation between educational and business functions. Third, the absence of a clear supervisory mechanism for the use of economic benefits from mining opens the risk of weak accountability in natural resource management. Harmonization of laws and

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[14] Irsan Rahman et al., *Mineral and Coal Mining Regulatory Reform in Indonesia*, *Journal of Law and Legal Reform*, vol. 6, 2025, https://doi.org/10.15294/jllr.v6i2.19040.

[15] Miranda Posogu, "Good Mining Practice vs . Realitas Lubang Tambang : Kritik Terhadap Tata Kelola Pertambangan Dalam Perspektif Keadilan Lingkungan," no. 3 (2026): 2920–34.

[16] Feby Ivalerina Kartikasari, "Mengukur Rasionalitas Pembuatan Undang-Undang Pertambangan Mineral Dan Batubara" 435, no. 435 (2025): 527–44.

regulations is an urgent normative need so that the involvement of BUM-PT in mining management remains in line with the objectives of natural resource control, the mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, and the function of organizing higher education.

3.2. Analyais Beneficial Owners of BUM-PT from the Perspective of the Principle of Ecological Justice

Management of natural resources through the mining sector demands transparency regarding the parties who actually control the business entity and enjoy the economic benefits from exploitation activities. The concept of beneficial owner was initially developed in the regime to prevent money laundering and terrorism financing, but in its development this concept is no longer understood merely as an administrative instrument, but as part of the principle of good corporate governance that requires transparency of the corporate control structure. Presidential Regulation Number 13 of 2018 concerning the Implementation of the Principle of Recognizing Beneficial Owners of Corporations defines beneficial owners as individuals who can actually control the corporation, are entitled to its economic benefits, and are the actual owners of the corporation's funds or shares. The relevance of this concept is increasingly strong in the mining sector because these activities utilize natural resources which, based on Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, are controlled by the state for the greatest prosperity of the people. Transparency of beneficial owners is therefore not just a corporate governance mechanism, but an instrument to ensure that parties who benefit from the exploitation of natural resources can be identified and held legally and ecologically accountable.[17]

This relevance has become increasingly prominent following the enactment of Law Number 2 of 2025, which established a priority WIUP mechanism for business entities collaborating with universities. This policy is intended to strengthen funding for higher education through the utilization of mineral and coal resource management. To assess whether a regulatory gap exists, it is necessary first to examine the adequacy of the existing beneficial ownership framework in Indonesia.

Indonesia has established a general legal framework governing beneficial ownership through Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes. This framework is operationalized through the General Legal Administration System (AHU) managed by the Ministry of Law and Human Rights, which requires corporations to submit beneficial ownership information upon establishment and whenever changes occur. In addition, the Financial Services Authority (OJK) has issued regulations requiring financial service institutions to identify and verify beneficial owners of their corporate clients. Implementing government regulations further obligate corporations to disclose beneficial ownership information in their corporate documents and annual reports. Taken together, these instruments constitute a comprehensive general regime for beneficial ownership transparency in Indonesia. The existence of this general regime does not automatically eliminate the need

[17] Fadhli Ahmad Fahrurozi, "Konsep Pertanggungjawaban Oleh Benefical Ownership Dalam Menjalankan Kegiatan Korporasi" 5, no. 3 (2025): 1877–86.

for sector-specific attention in the context of the WIUP priority mechanism for universities. The general beneficial ownership framework is designed primarily to prevent money laundering, terrorism financing, and other financial crimes. It is not oriented toward ensuring that the economic benefits of mining activities allocated through the priority WIUP mechanism genuinely accrue to universities for the purpose of funding the Tri Dharma of Higher Education. A business entity may fully comply with the beneficial ownership disclosure obligations under Presidential Regulation Number 13 of 2018 and the AHU system, and yet the disclosed beneficial owners may be unrelated to the university or its educational mission. The general framework requires transparency, but it does not impose a substantive requirement that the ultimate beneficiaries of the priority WIUP policy must be universities or their affiliated entities.

Therefore, the regulatory gap is not the absence of beneficial ownership regulation in general. Rather, the gap lies in the absence of a specific legal mechanism that links the beneficial ownership disclosure obligations to the substantive objective of the priority WIUP policy. The Mining Law does not require that business entities receiving priority WIUP allocations demonstrate that their beneficial owners are, directly or indirectly, universities or entities established for the benefit of universities. Without such a substantive requirement, the existing beneficial ownership framework ensures transparency but does not guarantee that the economic benefits of the priority mechanism will flow to the intended beneficiaries. The conclusion of a regulatory gap is therefore substantiated not by the lack of beneficial ownership regulation, but by the absence of a normative nexus between the general transparency framework and the specific policy objective of supporting higher education through mining resource allocation.[18]

A state-owned enterprise BUM-PT established as a limited liability company (PT) is indeed a separate legal entity based on the principle of a separate legal entity. However, the existence of a separate legal entity does not automatically answer the question of who actually controls the company and enjoys the economic benefits from mining activities. In modern corporate practice, control over a company can arise through various mechanisms, such as majority shareholding, the right to determine the appointment and dismissal of directors, affiliated relationships with other companies, or cooperation agreements that exert a dominant influence on the direction of company policy.[19] Therefore, the identification of beneficial owners in BUM-PT cannot be limited to a formal approach based on administratively recorded share ownership, but must include tracing the actual control relationships and distribution of economic benefits arising from mining activities.

The crucial point in identifying beneficial owners lies in the potential distinction between those formally listed as founders or shareholders and those who actually have effective control over the business entity. If investors or strategic partners outside of universities have dominant authority in strategic decision-making and enjoy the majority of the economic benefits from mining, then substantively, they are more appropriately considered beneficial

[18] Rebeka Triutami, Irawan Harahap, and Dedy Felandry, "Konflik Norma Pengaturan WIUPK Secara Prioritas Kepada BUMN BUMD Dengan Badan Usaha Milik Ormas Keagamaan," n.d.
[19] A. N. Saputra, "Evaluasi Pengelolaan Perguruan Tinggi Negeri Badan Hukum (PTNBH) (Studi Kasus Universitas Diponegoro Dan Universitas Negeri Semarang)."

owners. In such circumstances, universities have the potential to function only as formal legitimacy, allowing business entities to access the WIUP priority mechanism, without actually being the primary beneficiaries. The risk of using BUM-PT as a corporate vehicle by certain economic interests becomes apparent if there is no adequate transparency obligation regarding the ownership and control structure of the business entity, and no oversight mechanism to ensure that mining benefits are truly directed towards supporting the implementation of the Tridharma of Higher Education.[20]

This issue needs to be examined using the principle of ecological justice, which in this study is analyzed through three main dimensions: distributive justice, recognition justice, and participatory justice. Distributive justice, requires an analysis not merely of whether environmental harm exists, but of why the existing legal and economic structure produces an inequitable allocation of benefits and burdens. The normative chain can be traced as follows. A business entity (BUM-PT or a third-party company) obtains a WIUP and conducts mining activities.[21][22] The business entity generates profit from the extraction of mineral and coal resources. A portion of that profit is expected to flow to the university as the basis for the priority policy, thereby supporting the Tri Dharma of Higher Education. However, the regulatory framework does not require that the university be the primary or exclusive beneficiary of the business entity's profits. Where the business entity involves investors, affiliated companies, or other third parties, the profits are legally distributed according to the corporate ownership structure, not according to the public interest of higher education. Consequently, the economic benefits may be concentrated in the hands of beneficial owners who have no direct relationship with the university or its educational mission.[23] At the same time, the ecological burdens of mining activities land degradation, water pollution, loss of biodiversity, and social disruption are borne disproportionately by local communities residing around the mining area. These communities are situated outside the formal chain of benefit distribution. They are not parties to the corporate structure, they do not receive dividends, and they are not direct beneficiaries of the priority WIUP mechanism. Yet they bear the most immediate and lasting consequences of environmental damage. This structural separation between those who receive the benefits and those who suffer the burdens is not accidental; it is produced by the legal design itself.

The Mining Law and corporate law enable profit extraction through a limited liability structure, while environmental law imposes obligations that are often remedial and procedural rather than redistributive. The result is a systematic misalignment: the legal subject that profits from mining is legally insulated from the ecological costs, while the local

[20] Maleo Law Journal, Owner Di, and Perusahaan Indonesia, "Pertanggungjawaban Hukum Pemilik Manfaat (Beneficial Owner) Di Perusahaan Indonesia" 6, no. 2 (2022): 186–99.
[21] Imroatul Azizah et al., "Ancaman Terhadap Keanekaragaman Hayati Kalimantan: Implementasi Nilai Persatuan Dan Keadilan Ekologis," *Jurnal Pendidikan Pancasila Dan Kewarganegaraan* 6, no. 2 (2025): 79–95.
[22] Pratama, Pratiwi, and Lestari, "Konflik Agraria Dan Keadilan Ekologis: Tinjauan Hukum Atas Hak Masyarakat Adat Terhadap Tanah Ulayat."
[23] Wulandari, W., & Sisdianto, E. (2025). Praktik Terbaik Tata Kelola Lingkungan Dalam Industri Pertambangan di Kalimantan. *Jurnal Ilmiah Ekonomi, Manajemen, Bisnis Dan Akuntansi*, 2(1), 232-244. https://doi.org/10.61722/jemba.v2i1.610

community, which has no ownership stake, is exposed to environmental harm without receiving a corresponding share of the economic benefits. From the perspective of distributive justice, this arrangement fails the test of fairness because it does not ensure that those who bear the environmental burdens receive an equitable share of the benefits. The principle of ecological justice demands that the distribution of environmental goods and bads be governed by rules that are acceptable to all affected parties, particularly the most vulnerable. In the context of mining, this means that the legal framework must not only facilitate the flow of profits to universities but must also guarantee that local communities receive meaningful compensation, environmental restoration, and a participatory role in the governance of mining activities. The current regulatory framework prioritizes the allocation of permits and the generation of revenue, but it does not establish a legal mechanism for reconnecting the beneficiaries of mining with the communities that absorb its environmental costs.

The state as trustee holds natural resources for the benefit of the people, including future generations. The issuance of a priority WIUP without a corresponding mechanism to ensure that benefits are equitably distributed and that environmental burdens are properly managed constitutes a breach of the trustee's duty. The constitutional mandate of Article 33 paragraph (3) of the 1945 Constitution requires not merely the formal control of natural resources, but active stewardship that directs resource use toward the greatest prosperity of the people. When the state permits a business entity to extract resources and channel profits to private owners while local communities bear the ecological degradation, the state has failed to fulfill its trusteeship obligation. Distributive injustice therefore arises not from the absence of environmental regulation, but from the failure of the legal system to integrate the distribution of benefits and burdens within a coherent normative framework that prioritizes the welfare of affected communities and the long-term integrity of the environment.

When analyzed using Economic Analysis of Law, the policy of giving priority to WIUP to business entities that collaborate with universities can be said to be efficient only if the economic benefits generated are able to improve the quality of higher education and provide benefits to the community without incurring greater social and ecological costs.[24] On the other hand, if the majority of the benefits are enjoyed only by beneficial owners who are not related to educational interests, while the state bears the costs of supervision and the community bears the environmental impacts, then the policy results in legal inefficiency because private benefits are obtained through the imposition of public costs in the form of negative externalities. Beneficial owner transparency in this framework is not merely an administrative obligation, but a mechanism that is economically capable of reducing agency costs, reducing the risk of moral hazard, and increasing accountability in natural resource management so that the distribution of benefits is more in line with the public interest that forms the basis for policy formation.

The second dimension is recognition justice, which questions whether the policy of granting concessions to state-owned enterprises BUM-PT recognizes and protects the interests of all parties affected by mining activities. Amendments to Law Number 2 of 2025 primarily regulate the mechanism for granting priority in the relationship between the state, business

[24] M. Ali Fauzi I wayan Sudira, Hasannudin Hidayat, "Analisis Relevansi Teori Richard Posner Dalam Pengembangan Hukum Ekonomi Di Indonesia," *Hukum* 12, no. 1 (2024): 99–118.

entities, and universities, without adequate provisions regarding the protection of local communities, indigenous communities, and vulnerable groups potentially directly impacted by mining activities. Without transparency regarding the identity of beneficial owners, communities will have difficulty determining who should be held accountable in the event of environmental pollution, land tenure conflicts, or violations of social rights.[25] A non-transparent corporate structure in such conditions has the potential to become a means to avoid legal responsibility, so that transparency regarding beneficial owners not only functions as an instrument of corporate governance, but also as a form of recognition of the public's right to know who benefits from and is responsible for mining activities.[26]

The third dimension is participatory justice, which requires public involvement in every stage of natural resource management. Existing laws and regulations do not yet provide a mechanism that explicitly guarantees public involvement in the process of establishing cooperation between business entities and universities, monitoring the use of economic benefits, or evaluating the implementation of mining activities.[27] Transparency regarding the identity of beneficial owners is a primary prerequisite for effective public participation, because without such information, the public lacks a sufficient basis for conducting oversight or holding accountable those who actually control mining activities. From a Public Trusteeship perspective, public participation is a consequence of the state's position as a trustee managing natural resources on behalf of the people. Meanwhile, from an Economic Analysis of Law perspective, information transparency and public involvement can reduce information asymmetry, reduce moral hazard, and reduce oversight costs, thereby making mining governance more efficient overall.[28]

The normative weaknesses identified through these three dimensions of ecological justice indicate the need for a more comprehensive regulatory model for state-owned enterprises BUM-PT. Existing regulations do not provide a clear definition of BUM-PT as a mining business actor, do not require transparency of beneficial owners as a monitoring instrument, do not regulate the allocation mechanism for mining profits for the implementation of the Tridharma (Three Pillars of Unity), and do not provide an adequate mechanism for community participation.[29] This situation opens up the risk of misuse of the

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[25] Gita Ranjani et al., "Green Constitution : Tinjauan Kemanfaatan Dan Pemulihan Lingkungan Hidup Melalui Reklamasi Dan Pascatambang Hendi Setiawan PENDAHULUAN Konsep Green Constitution Lahir Setelah Munculnya Kesadaran Akan Permasalahan Lingkungan Global Serta Berkembangnya Hak " 9, no. 3 (2024): 108–33.

[26] Ellyta, E., Widarti, S., & Youlla, D. (2023). Empowerment of Retired Citizens with The Utilization of Used Tires as A Street Bump: Pemberdayaan Warga Purna Tugas Dengan Pemanfaatan Ban Bekas sebagai Street Bump. Mattawang: Jurnal Pengabdian Masyarakat, 4(2), 215-220. https://doi.org/10.35877/454RI.mattawang1798

[27] Pebrianto, R., Asof, M., & Purbasari, D. (2023). Membina Keahlian Pertambangan: Pembelajaran Aktif dan Pelatihan Laboratorium di PT Bukit Asam Tanjung Enim untuk Mahasiswa Universitas Sriwijaya. *AJAD: Jurnal Pengabdian kepada Masyarakat*, *3*(2), 62-69. DOI: 10.59431/ajad.v3i2.174

[28] Jimly Asshiddiqie, *Konstitusi Ekonomi Indonesia*, Edisi Pert (Jakarta, Indonesia: Rajawali Pers (PT RajaGrafindo Persada), 2022).

[29] Azmy, F., Murhani, S., & Kristanto, K. (2025). Pendekatan Mediasi Penal Polsek Telawang Dalam Menangani Sengketa Lahan Sawit Di Kecamatan Telawang Kabupaten Kotawaringin Timur Berbasis Prinsip Kemanfaatan Hukum. *Journal of Social and Economics Research*, *7*(1), 76-88. https://idm.or.id/JSER/index.php/JSER/article/view/803

WIUP priority policy by certain parties who use collaboration with universities as a gateway to access mining concessions without a true orientation towards educational interests. From a Public Trusteeship perspective, this condition indicates that the state has not fully fulfilled its function as the holder of the mandate for natural resource management, as the lack of comprehensive regulations has the potential to allow natural resource benefits to be concentrated in the hands of certain interests rather than being returned to the community.[30]

The ideal model for regulating a state-owned enterprise BUM-PT as a mining operator should be developed through harmonization of the legal regimes of mining, corporate law, higher education law, and environmental law. Regulations should provide a clear definition of a BUM-PT, establish the legal entity forms that can obtain priority for Mining Business License Areas (WIUP), and explicitly regulate the institutional relationship between the business entity and universities. Obligations for beneficial owner transparency should be regulated both before and during mining operations to ensure that the party truly controls the company in accordance with the objectives of policy formulation. A portion of mining profits should be allocated proportionally to finance the Tridharma of Higher Education, with a regular reporting mechanism to the government and universities for transparent oversight of its use. Environmental protection should be positioned as an integral part of mining governance, with BUM-PTs encouraged to become models for implementing sustainable mining practices through the utilization of research and innovation from their universities.[31]

This model must be equipped with a continuous monitoring mechanism and tiered sanctions. Supervision is not sufficient to be carried out only at the WIUP priority granting stage, but must cover all implementation of mining activities starting from compliance with environmental provisions, beneficial owner transparency, to the use of profits to support the implementation of Tridharma. If deviations are found such as unreported changes in beneficial owners, use of profits that are not in accordance with educational objectives, or violations of environmental obligations, the government must have the authority to impose administrative sanctions in stages up to the revocation of priority rights or permits. This regulatory model integrates the principle of beneficial owner transparency, Public Trusteeship which places the state as the holder of the mandate for the management of natural resources, and the Economic Analysis of Law approach which requires regulations to be able to reduce moral hazard and increase governance efficiency, so that the management of mineral and coal resources through BUM-PT not only provides legal certainty but also ecological justice and provides the greatest benefit for the prosperity of the people as mandated by Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

4. Conclusions

there are two main interrelated findings. BUM-PT legally has the capacity as a legal subject if it is established in the form of a legal entity, but this capacity does not provide complete legitimacy as a subject receiving a mining concession because there is no single law

[30] Ananda Putri Salsabila, "Disharmoni Peraturan Penawaran Prioritas Wilayah Izin Usaha Pertambangan Khusus (WIUPK) Pasca Diprioritaskan Terhadap Badan Usaha Organisasi Kemasyarakatan ' Keagamaan '" 55, no. 1 (2025), https://doi.org/10.21143/jhp.vol55.no.1.1693.
[31] Posogu, "Good Mining Practice vs . Realitas Lubang Tambang : Kritik Terhadap Tata Kelola Pertambangan Dalam Perspektif Keadilan Lingkungan."

that explicitly recognizes the legal status, formation mechanism, monitoring system, and accountability of BUM-PT in the national mining legal regime, thus creating a legal vacuum and disharmony between the mining legal regime and the higher education legal regime which has implications for legal uncertainty, potential conflicts of interest, and weak accountability in natural resource management. From the perspective of ecological justice, the existing regulations do not reflect distributive justice because no mechanism guarantees that the economic benefits of mining are truly directed towards the implementation of the Tridharma of Higher Education, do not reflect recognition justice because protection for local communities and vulnerable groups affected by mining activities does not receive adequate regulation, and do not reflect participatory justice because public involvement in monitoring mining management is not guaranteed normatively, so that harmonization of regulations is needed that integrate the transparency obligations of beneficial owners, profit allocation mechanisms for the Tridharma, environmental protection, and community participation so that the involvement of BUM-PT in the mining sector remains in line with the mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

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