

■ Submitted: 28 August 2023 ■ Revised: 27 September 2023 ■ Accepted: 15 November 2023

Between Mining and Justice: Reconstructing Responsible Mining in the Framework of Indonesian Mining Law

Sinung Mufti Hangabei^{1*}, Hendi Sastra Putra², Mikho Ardinata³, and Edi Riyanto⁴

¹ Faculty of Law Universitas Muhammadiyah Bengkulu,

² Faculty of Law Universitas Muhammadiyah Bengkulu,

³ Faculty of Law Universitas Muhammadiyah Bengkulu,

⁴ Faculty of Law Universitas Muhammadiyah Bengkulu

* Correspondence email: sinungmufti@umb.ac.id

ABSTRACT Mining governance in Indonesia often shows a gap between the constitutional mandate of natural resource management under Article 33 of the 1945 Constitution and its practical implementation, particularly in relation to social justice, environmental sustainability, and the welfare of local communities. This study aims to analyze the concept of responsible mining within Indonesian mining law and to reconstruct its legal foundation based on the principles of social justice and constitutional resource governance. This research employs normative legal research using statutory and conceptual approaches. Legal materials are analyzed qualitatively to examine the relationship between constitutional principles, mining regulations, and the concept of responsible mining. The study reveals that Indonesian mining law still demonstrates a misalignment between constitutional mandates and mining practices, limited integration of social justice, weak legal orientation toward local community welfare, and normative ambiguity in the concept of responsible mining. This research proposes the reconstruction of responsible mining as a constitutional legal principle grounded in Article 33 of the 1945 Constitution and strengthened through the integration of the social licence to operate concept in mining governance.

KEYWORDS responsible mining; mining law; social justice; social licence to operate.

INTRODUCTION

Natural resources play a crucial role in supporting economic development and national prosperity. As a country endowed with abundant mineral and coal resources, Indonesia has long relied on the mining sector as a strategic component of its economic growth and industrial development. The exploitation and management of these natural resources are constitutionally grounded in Article 33 paragraph (3) of the 1945 Constitution, which stipulates that the earth, water, and natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people. This constitutional mandate reflects the philosophical foundation of Indonesia's natural resource governance, emphasizing that economic activities involving natural resources must ultimately contribute to public welfare.

In practice, however, the development of the mining sector has often generated complex legal, social, and environmental challenges. Mining activities frequently lead to environmental degradation, land conflicts, and socio-economic disparities within communities surrounding mining areas (Kemp, 2010). While mining projects may contribute significantly to national revenue and regional development, local communities

sometimes experience limited economic benefits while bearing the environmental and social costs of mining operations. This imbalance raises fundamental questions regarding whether the current legal framework governing mining activities sufficiently reflects the constitutional objective of achieving social justice and public welfare.

An important dimension that often becomes the center of debate in mining governance is the issue of local community welfare. Communities living around mining areas are frequently those who experience the most direct impact of mining activities, both economically and environmentally. Ideally, mining operations should provide tangible benefits for local communities, such as employment opportunities, infrastructure development, and economic empowerment programs (Bebbington et al., 2013). However, in many cases, the distribution of economic benefits from mining activities remains unequal, resulting in a paradox in which regions rich in natural resources still face poverty and limited access to social welfare. This condition indicates that the governance of mining resources has not fully achieved its constitutional objective of ensuring the welfare of the people.

The regulatory framework governing mining activities in Indonesia is primarily stipulated in Law Number 3 of 2020 concerning Mineral and Coal Mining, which amended Law Number 4 of 2009. This legislation aims to strengthen state control over mineral resources, improve the governance of mining activities, and ensure sustainable resource management. The law also emphasizes principles such as environmental protection, community empowerment, and post-mining reclamation obligations. Nevertheless, critics argue that the implementation of mining regulations still tends to prioritize economic interests and investment expansion over community welfare and ecological sustainability (Llisari, 2021). As a result, the normative ideals embedded in the legal framework are not always reflected in practical mining governance.

In response to these challenges, the concept of responsible mining has emerged as an important normative framework within global mining governance. Responsible mining emphasizes that mining activities should be conducted in a manner that balances economic development with environmental protection, social responsibility, and long-term sustainability (International Council on Mining and Metals (ICMM) 2020). This concept seeks to ensure that mining operations not only comply with legal regulations but also contribute to the welfare of local communities and the protection of ecological systems. In many jurisdictions, responsible mining has increasingly been recognized as a guiding principle for promoting ethical and sustainable resource extraction.

Despite its growing recognition, the concept of responsible mining within the Indonesian legal framework remains largely interpreted through technical and regulatory compliance perspectives, particularly in relation to environmental management and corporate social responsibility programs (Marilang, 2022). Consequently, the normative dimension of social justice, which constitutes the philosophical basis of natural resource governance under the Indonesian constitutional framework, has not been sufficiently integrated into the conceptualization of responsible mining.

Therefore, this study seeks to examine the concept of responsible mining from the perspective of Indonesian mining law by emphasizing the importance of social justice as a normative foundation for natural resource governance. Through a legal and conceptual analysis, this research aims to reconstruct the concept of responsible mining within the

Indonesian legal framework so that mining governance can better reflect constitutional principles, particularly the realization of social justice, environmental sustainability, and community welfare. By doing so, the study contributes to the development of a more equitable legal paradigm for mining governance in Indonesia.

Studies on mining from legal and socio-economic perspectives have been widely conducted by previous scholars. However, most of these studies tend to focus on issues such as corporate social responsibility, environmental governance, and regulatory implementation. The approach that places social justice as the fundamental basis for reconstructing the concept of responsible mining within mining law remains relatively limited.

A study conducted by Ukar Wijaya Soelistijo (2013) highlights the role of Corporate Social Responsibility (CSR) in the mining industry as an instrument to improve the welfare of communities living around mining areas. The research demonstrates that CSR programs can strengthen the relationship between mining companies and local communities through economic and social empowerment initiatives. Nevertheless, the study primarily emphasizes the implementation of CSR programs as corporate obligations and does not further explore how the concept of responsible mining can be normatively reconstructed within the mining law framework.

Another study by Suhardiman Gumanti and colleagues examines the implementation of CSR in empowering communities in mining regions. The study concludes that CSR practices constitute an important element of good mining practice, which aims to improve community welfare while maintaining environmental sustainability (Gumanti et al., 2016). However, the research mainly treats CSR as a managerial instrument of mining companies and does not link it to the broader concept of social justice within the legal structure of mining governance.

Furthermore, research conducted by Wahyu Nugroho discusses mining policies in relation to the protection of indigenous peoples. The study emphasizes the importance of environmentally just mining policies that recognize and protect the rights of indigenous communities in natural resource management (Nugroho et al., 2019). Although the study contributes significantly to the discourse on indigenous rights, it does not specifically analyze responsible mining as a legal paradigm oriented toward social justice.

Another relevant study by Lelisari examines regulatory changes in the Mineral and Coal Mining Law, particularly concerning the regulation of corporate social responsibility. The research indicates that the amendments introduced by Law Number 3 of 2020 still leave several issues unresolved regarding community protection and environmental sustainability in mining areas (Lelisari, 2021). Nevertheless, the study focuses mainly on regulatory critique and does not propose a conceptual reconstruction of a more socially just mining governance model.

In addition, research on responsible mining governance has been conducted by Marilang (2024), who highlights the importance of responsible mining practices within the national legal system. The study argues that mining governance should prioritize environmental sustainability and community welfare in accordance with the principles of the welfare state. However, the discussion of responsible mining in this study remains limited to governance and environmental management aspects and does not position social justice as the central paradigm in the development of mining law.

Based on the above-mentioned studies, it can be concluded that the existing scholarship on mining governance largely focuses on practical and regulatory aspects, particularly corporate responsibility, environmental management, and mining policy implementation. Therefore, this research seeks to fill the existing gap by examining the reconstruction of the concept of responsible mining within Indonesian mining law based on the principle of social justice, ensuring that natural resource management is not merely oriented toward economic interests but also toward community welfare and environmental sustainability.

The main legal issue in this research concerns the gap between the constitutional mandate of natural resource management and the practical implementation of mining governance in Indonesia. Article 33 paragraph (3) of the 1945 Constitution requires that natural resources be managed and utilized for the greatest prosperity of the people. However, in practice, mining activities often generate environmental degradation, social conflicts, and unequal distribution of economic benefits, particularly for communities living in mining areas.

Furthermore, although the concept of responsible mining has been increasingly promoted as a framework for sustainable and ethical mining practices, its integration into the Indonesian mining legal system remains limited. Existing mining regulations primarily focus on licensing mechanisms, investment facilitation, and environmental compliance, while the principles of social justice and local community welfare have not been sufficiently emphasized as the core foundation of mining governance.

Therefore, this research raises the legal issue of how the concept of responsible mining should be reconstructed within the framework of Indonesian mining law in order to ensure that mining activities not only comply with regulatory requirements but also realize the constitutional objectives of social justice, environmental sustainability, and the welfare of local communities.

RESEARCH METHOD

This study employs normative legal research, which focuses on examining legal norms, legal principles, and legal doctrines related to mining governance in Indonesia. Normative legal research is used to analyze how the concept of responsible mining can be reconstructed within the framework of Indonesian mining law, particularly in relation to the constitutional mandate concerning the management of natural resources (Handayani, 2016). Through this approach, the study evaluates the consistency between constitutional principles, statutory regulations, and the practical implementation of mining governance.

The research applies several approaches to obtain a comprehensive legal analysis. First, the statutory approach is used to analyze legal provisions governing mining activities in Indonesia, particularly Article 33 paragraph (3) of the 1945 Constitution and Law Number 3 of 2020 concerning Mineral and Coal Mining. This approach allows the researcher to examine the legal framework that regulates the exploitation and management of mineral resources (Putuhena, 2019).

Second, the study employs a conceptual approach, which examines legal doctrines and theoretical perspectives concerning responsible mining, social justice, and sustainable natural resource management. This approach is important in identifying the philosophical and normative foundations underlying the concept of responsible mining and its relevance

to Indonesian mining law. Third, a philosophical approach is utilized to analyze the constitutional values embedded in natural resource governance, particularly the principles of social justice and public welfare. Through this approach, the research evaluates whether the current legal framework reflects the constitutional objectives of natural resource management and how responsible mining can be reconstructed to align with these principles (Tjandra, 2016).

The sources of legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include the Constitution of the Republic of Indonesia of 1945 and statutory regulations related to mining and environmental protection. Secondary legal materials consist of academic literature, legal journals, and previous research discussing mining law, responsible mining, and natural resource governance. Meanwhile, tertiary legal materials include legal dictionaries and other supporting references. The collected legal materials are analyzed using qualitative legal analysis, which emphasizes interpretation and systematic evaluation of legal norms and doctrines. Through this analytical method, the study aims to formulate a conceptual reconstruction of responsible mining that integrates constitutional principles, social justice, environmental sustainability, and the welfare of local communities within the Indonesian mining law framework.

RESULT AND DISCUSSION

The Misalignment Between Constitutional Mandates and Mining Practices

Indonesia's constitutional framework establishes a clear normative foundation for the governance of natural resources. Article 33 paragraph (3) of the 1945 Constitution stipulates that the earth, water, and natural resources contained therein are controlled by the state and must be utilized for the greatest prosperity of the people. This provision reflects the philosophical principle that natural resource management should prioritize public welfare, social justice, and equitable economic distribution. In the context of mining activities, this constitutional mandate requires that the exploitation of mineral and coal resources not only contribute to national economic growth but also ensure fair benefits for communities, particularly those living in mining areas (Tjandra, 2016).

However, the practical implementation of mining governance in Indonesia often reveals a significant gap between constitutional ideals and empirical realities. In many cases, mining operations have resulted in environmental degradation, land-use conflicts, and socio-economic disparities in local communities. Although the mining sector contributes substantially to national revenue and regional development, the benefits are not always distributed proportionally to the communities directly affected by mining activities (Al'Afghani, 2018). This situation illustrates a structural imbalance where the economic gains from natural resource extraction tend to concentrate at the national or corporate level, while the environmental and social burdens are borne by local communities.

Furthermore, the regulatory framework governing mining activities has frequently been criticized for emphasizing investment facilitation and economic productivity rather than strengthening mechanisms for social justice and community welfare. While legal instruments such as Law Number 3 of 2020 concerning Mineral and Coal Mining provide provisions related to environmental management, community development, and reclamation obligations, their implementation often remains procedural and does not

necessarily guarantee substantive protection for communities and ecosystems in mining regions (Lelisari, 2021). As a result, the governance of mining resources sometimes fails to fully reflect the constitutional objective of achieving the greatest prosperity of the people.

Scholars have also argued that the persistence of this misalignment is closely related to the dominant paradigm of resource exploitation within natural resource governance. Mining policies tend to prioritize economic extraction and investment expansion, which may weaken the state's role in ensuring equitable distribution of benefits and environmental sustainability (Marilang, 2022). Consequently, despite the strong constitutional basis for socially oriented natural resource governance, the existing mining practices still face challenges in aligning with the principles of justice, sustainability, and community welfare envisioned by the Constitution.

Therefore, the gap between constitutional mandates and mining practices highlights the need for a stronger legal framework capable of integrating constitutional values into the governance of mining activities. Addressing this misalignment requires not only regulatory improvements but also a conceptual transformation in the legal understanding of mining governance. In this context, reconstructing the concept of responsible mining becomes essential to ensure that mining activities are conducted in accordance with constitutional principles, particularly the realization of social justice, environmental sustainability, and the welfare of local communities.

The Limited Integration of Social Justice within Mining Law

Social justice constitutes a fundamental principle within the Indonesian constitutional framework, particularly in the governance of natural resources. The concept of social justice reflects the constitutional aspiration that the exploitation and management of natural resources should contribute to the equitable distribution of economic benefits and the welfare of society as a whole. In the context of mining activities, this principle requires that the legal framework governing mineral and coal extraction ensure not only economic productivity but also fairness in the distribution of benefits, protection of local communities, and sustainability of the environment (Tjandra, 2016).

However, the integration of social justice within Indonesian mining law remains relatively limited. Existing legal regulations primarily focus on administrative and economic aspects, such as licensing procedures, investment facilitation, and production targets. Although these regulatory instruments aim to strengthen governance and legal certainty within the mining sector, they often do not sufficiently emphasize mechanisms that guarantee equitable benefit-sharing for communities affected by mining activities (Putuhena, 2019). As a result, mining law tends to function more as a regulatory tool for managing extraction activities rather than as a legal instrument for achieving social justice.

The limited integration of social justice is also reflected in the regulatory approach toward community participation and protection. In many cases, communities living around mining areas have limited involvement in decision-making processes related to mining permits and land use. This condition may lead to social conflicts and disputes over land ownership and environmental degradation (Al'Afghani, 2018). Although certain legal provisions require mining companies to implement community development programs and environmental management measures, these obligations are often implemented as procedural requirements rather than as substantive efforts to improve community welfare.

Moreover, the dominant paradigm within mining governance still tends to prioritize economic growth and resource exploitation. Such an approach may weaken the role of law as an instrument for ensuring fairness and protecting vulnerable groups. Scholars have argued that the orientation of mining law should be shifted from a purely extractive model toward a more socially oriented legal framework that integrates principles of justice, sustainability, and community empowerment (Marilang, 2022). Without such integration, mining governance risks perpetuating inequalities between corporate actors, the state, and local communities.

Therefore, strengthening the integration of social justice within mining law is essential to ensure that the management of natural resources aligns with constitutional values and societal expectations. A more socially oriented legal framework should incorporate mechanisms that guarantee fair distribution of economic benefits, meaningful community participation, and stronger environmental protection. In this regard, the reconstruction of responsible mining within the Indonesian mining legal framework becomes crucial to bridge the gap between legal norms and the broader objectives of social justice and public welfare.

The Weak Legal Orientation Toward Local Community Welfare

Local community welfare is an essential aspect of natural resource governance, particularly in regions where mining activities directly affect social, economic, and environmental conditions. In principle, the exploitation of mineral and coal resources should contribute to the improvement of living standards for communities surrounding mining areas through employment opportunities, economic empowerment, and infrastructure development (Hilson, 2012). However, the legal orientation of mining governance in Indonesia has often been criticized for placing greater emphasis on economic productivity and investment facilitation rather than prioritizing the welfare of local communities (Tajndra, 2016).

Although Indonesian mining regulations contain provisions related to community development and corporate social responsibility, these legal mechanisms often remain procedural in nature and do not necessarily ensure substantive improvements in the socio-economic conditions of affected communities. In many mining regions, communities continue to face environmental degradation, reduced access to land resources, and social conflicts arising from mining operations (Al'Afghani, 2018). As a result, the benefits generated from natural resource exploitation tend to be concentrated at the corporate and governmental levels, while the local communities who bear the direct impacts of mining activities receive limited long-term advantages (Bebbington et al., 2018).

Furthermore, the limited legal orientation toward community welfare is also reflected in the relatively weak mechanisms for community participation and benefit-sharing within mining governance (Franks, 2012). In practice, decision-making processes related to mining permits and resource management are often dominated by state authorities and corporate actors, leaving local communities with minimal influence over policies that directly affect their livelihoods (Putuhena, 2019). Scholars have argued that this imbalance illustrates a structural problem in natural resource governance, where the legal framework has not yet fully integrated the principles of social justice, participatory governance, and equitable distribution of resource benefits (Billon, 2020).

Therefore, strengthening the legal orientation toward local community welfare is crucial in order to align mining governance with constitutional principles and sustainable development objectives (Gilberthorpe & Banks, 2012). A more socially oriented mining legal framework should ensure that local communities are not merely passive recipients of corporate social responsibility programs, but active stakeholders who benefit fairly from natural resource management (Marilang, 2022).

The Normative Ambiguity of Responsible Mining within Indonesian Mining Law

The concept of responsible mining has increasingly emerged as an important framework in global natural resource governance. In general, responsible mining refers to mining practices that integrate economic development, environmental protection, social responsibility, and community welfare. However, within the context of Indonesian mining law, the concept of responsible mining has not yet been clearly articulated as a comprehensive legal doctrine or guiding principle in the regulation of mining activities (Hilson, 2012).

The responsible mining has gained significant attention in global discussions on extractive industry governance. In principle, responsible mining refers to mining activities that balance economic interests with environmental protection, social responsibility, and sustainable development (Lyster, 2013). Nevertheless, within the Indonesian legal framework, the concept has not yet been formulated as a clear normative principle in the regulation of mining activities (Cameron & Stanley, 2015). Indonesian mining law tends to regulate technical, administrative, and economic aspects of mining operations, while broader normative principles such as responsibility toward communities and environmental sustainability are addressed through scattered regulatory provisions (Ichsan, 2021).

In the Indonesian context, the Mineral and Coal Mining Law provides obligations related to environmental management, reclamation, and post-mining activities. However, these obligations are generally positioned as regulatory compliance mechanisms rather than as part of a comprehensive doctrine of responsible mining (Nurtjahjo, 2018). Consequently, the legal framework often treats social and environmental responsibilities as supplementary obligations rather than as fundamental principles that guide the governance of extractive industries.

This situation creates normative ambiguity, where the concept of responsible mining exists in policy discourse and academic discussions but is not clearly embedded in binding legal norms. As a result, there is often inconsistency between regulatory objectives and the practical implementation of mining governance (Kemp & Owen, 2016). Scholars argue that without a clearly articulated legal principle, the interpretation of responsible mining may vary among regulators, corporations, and local authorities, leading to fragmented implementation in different mining regions (A. Zalik, 2015).

Furthermore, the ambiguity is also related to the broader challenge of integrating sustainable development principles into natural resource law. Many legal scholars emphasize that mining governance should not only regulate extraction activities but also ensure the protection of environmental sustainability and social welfare (Schrijver, 2008). However, in practice, the legal orientation of mining regulation in many resource-rich

countries—including Indonesia—still prioritizes economic growth and investment expansion (Otto et al., 2016).

Therefore, clarifying the normative position of responsible mining within Indonesian mining law becomes crucial. A clearer conceptualization could strengthen the legal framework by integrating environmental protection, social justice, and community welfare as core principles of mining governance (Lambooy, 2014). Such reconstruction would also help align mining law with broader international standards of sustainable resource management and responsible extractive practices (Saad, 2020).

A Reconstruction of Responsible Mining within the Legal Framework

The reconstruction of responsible mining within the legal framework is essential to address the growing challenges associated with extractive industry governance. In many resource-rich countries, mining activities often generate economic growth but simultaneously produce environmental degradation, social conflicts, and unequal distribution of benefits. Therefore, the concept of responsible mining needs to be repositioned as a normative legal principle that guides the governance of mining activities in a balanced manner between economic interests, environmental sustainability, and social welfare (Addison & Roe, 2018).

Within the Indonesian context, the legal framework governing mineral and coal mining has undergone several regulatory reforms, particularly through amendments to the Mineral and Coal Mining Law. Despite these reforms, scholars argue that the legal framework still tends to emphasize regulatory control and administrative licensing rather than integrating broader principles of sustainability and community welfare into the core structure of mining governance (Juwana, 2017). As a result, responsible mining remains largely interpreted through fragmented legal obligations, such as environmental management plans, reclamation requirements, and corporate social responsibility programs (Erman Rajagukguk, 2019).

A legal reconstruction is therefore necessary to reposition responsible mining as a guiding principle within mining law. This reconstruction should integrate several key elements, including environmental responsibility, community participation, equitable benefit distribution, and sustainable development objectives. By embedding these principles within the legal framework, mining governance can move beyond a purely extractive orientation toward a more socially responsive and sustainable regulatory model (Sovacool, 2020). Scholars also emphasize that the protection of community rights and environmental governance must become an integral component of mining regulation (Ichsan, 2021).

Furthermore, the reconstruction of responsible mining must also consider the importance of strengthening participatory governance and transparency in the extractive sector. International experiences demonstrate that effective legal frameworks for extractive industries often incorporate mechanisms that promote community engagement, accountability, and equitable benefit-sharing (Filer & Jackson, 2019). Such mechanisms not only enhance the legitimacy of mining governance but also reduce the risk of social conflict in mining regions. These mechanisms are also closely related to the concept of social license to operate, which highlights the importance of public acceptance in mining governance (Owen & Kemp, 2013).

In this regard, reconstructing responsible mining within Indonesian mining law is not merely a matter of regulatory reform but also a broader effort to align the governance of natural resources with constitutional values, sustainable development principles, and the protection of local community interests (Soemarwoto, 2013). A clearer legal framework that incorporates responsible mining principles can therefore serve as a foundation for more equitable and sustainable management of mineral resources. This approach is also consistent with the growing discourse on sustainable development within Indonesian mining regulation (Wartini, 2019).

The reconstruction of responsible mining within the legal framework must be closely connected to the constitutional mandate governing natural resource management in Indonesia. Article 33 paragraph (3) of the 1945 Constitution stipulates that *“the earth, water, and natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people.”* This constitutional provision establishes a normative foundation that natural resource exploitation, including mining activities, must prioritize public welfare rather than merely economic extraction (Indrati, 2019). In this context, responsible mining should not only be understood as a corporate commitment to environmental management or social responsibility, but also as a legal principle that operationalizes the constitutional mandate of equitable resource governance.

Article 33 paragraph (3) of the 1945 Constitution establishes the doctrine of state control over natural resources, which reflects the broader international legal principle of permanent sovereignty over natural resources. This principle emphasizes that the state must manage natural resources not only for economic development but also for the long-term welfare of its people and sustainable development (Schrijver, 2019).

However, in practice, the implementation of mining law often reflects a regulatory orientation that prioritizes economic development and resource extraction. Although the state exercises control over natural resources through licensing systems, regulatory supervision, and contractual arrangements, these mechanisms do not always ensure that mining activities contribute directly to the welfare of local communities (Erman Rajagukguk, 2020). Consequently, the constitutional principle embodied in Article 33 of the 1945 Constitution is sometimes reduced to a formal doctrine of state control without sufficient emphasis on substantive public welfare outcomes.

In order to address this gap, the reconstruction of responsible mining should integrate the constitutional doctrine of state control over natural resources with contemporary governance concepts such as the social licence to operate (SLO). The concept of social licence to operate refers to the level of acceptance or approval granted by local communities and stakeholders toward mining activities conducted in their region (Owen & Kemp, 2013). Unlike formal legal permits issued by the state, social licence is derived from trust, legitimacy, and continuous engagement between mining companies and affected communities. The absence of such social acceptance often leads to social conflicts, protests, and operational disruptions in mining regions. Unlike formal legal permits issued by the state, social licence is built through trust, legitimacy, and continuous engagement between mining companies and local communities (Thomson & Boutilier, 2011).

Integrating the concept of social licence to operate into the legal framework of responsible mining is therefore crucial for strengthening the realization of the constitutional mandate under Article 33. A mining governance model that recognizes

community participation, transparency, and equitable benefit-sharing can help ensure that the management of mineral resources truly contributes to public welfare (Susanto, 2021). In this regard, responsible mining should be reconstructed as a legal principle that connects constitutional resource governance, environmental sustainability, and community legitimacy.

Such a reconstruction would transform responsible mining from a voluntary corporate practice into a normatively grounded legal framework that reflects both constitutional values and modern governance standards in the extractive sector. By aligning mining regulation with the principles of social justice, community participation, and sustainable development, Indonesian mining law can better fulfill its constitutional obligation to manage natural resources for the greatest prosperity of the people (Sovacool, 2021).

By integrating constitutional principles, community participation, and sustainability considerations, responsible mining can be reconstructed as a guiding legal principle within Indonesian mining law. Such an approach is also consistent with the growing discourse on sustainable environmental governance within Indonesia's mining regulation.

Conclusion

This study demonstrates that the governance of mining activities in Indonesia still faces a significant gap between constitutional mandates and practical implementation. Article 33 paragraph (3) of the 1945 Constitution establishes a clear normative foundation that natural resources must be managed and utilized for the greatest prosperity of the people. However, the current mining governance framework often prioritizes economic productivity and investment expansion, while the principles of social justice, environmental sustainability, and local community welfare remain insufficiently integrated into the legal structure of mining regulation.

The analysis further reveals several structural problems within Indonesian mining law. First, there is a misalignment between the constitutional objectives of natural resource governance and the practical implementation of mining policies. Second, the integration of social justice within the legal framework of mining regulation remains limited, as regulatory mechanisms tend to emphasize administrative licensing and economic interests. Third, the legal orientation toward local community welfare remains weak, particularly in terms of community participation, benefit-sharing, and protection from environmental impacts. In addition, the concept of responsible mining itself still suffers from normative ambiguity, as it is not yet clearly formulated as a guiding legal principle within Indonesian mining law.

In response to these challenges, this study proposes a reconstruction of responsible mining within the legal framework of Indonesian mining law. Responsible mining should be repositioned not merely as a corporate ethical practice or regulatory compliance mechanism, but as a normative legal principle rooted in the constitutional mandate of Article 33 of the 1945 Constitution. This reconstruction requires the integration of several key elements, including environmental responsibility, social justice, community participation, equitable benefit distribution, and sustainable development.

Furthermore, the integration of the concept of social licence to operate (SLO) into mining governance can strengthen the realization of constitutional principles in practice. By recognizing the importance of community acceptance, transparency, and participatory decision-making, mining governance can better ensure that natural resource management

truly contributes to the welfare of local communities and the sustainability of ecological systems.

Ultimately, reconstructing responsible mining as a constitutionally grounded legal principle can help transform the orientation of Indonesian mining law from a predominantly extractive model toward a more socially just and sustainable framework. Such an approach is essential to ensure that the management of mineral resources genuinely fulfills the constitutional objective of achieving the greatest prosperity of the people.

REFERENCES

- Anna Zalik, "Resource Extraction and the Global Governance of Extractive Industries," *Global Environmental Politics*, Vol. 15, No. 4, 2015.
- Anthony Bebbington et al., "Resource Extraction and Infrastructure Threaten Forest Cover and Community Rights," *Proceedings of the National Academy of Sciences*, Vol. 115, No. 52, 2018.
- Anthony Bebbington et al., *Social Conflict, Economic Development and Extractive Industry: Evidence from South America*, Routledge, 2013.
- Benjamin K. Sovacool, "Governance of the Extractive Industries and Sustainable Development," *The Extractive Industries and Society*, Vol. 8, No. 1, 2021.
- Colin Filer & Richard Jackson, "Mining and Social Conflict in Resource-Rich Countries," *Resources Policy*, Vol. 61, 2019.
- Daniel Franks, "Social Impact Assessment of Resource Projects," *Impact Assessment and Project Appraisal*, Vol. 30, No. 3, 2012.
- Emma Gilberthorpe & Glenn Banks, "Development on Whose Terms? CSR Discourse and Social Realities in Papua New Guinea's Extractive Industries," *Resources Policy*, Vol. 37, No. 2, 2012.
- Erman Rajagukguk, "Mining Law Reform and Legal Certainty in Indonesia," *Jurnal Hukum & Pembangunan*, Vol. 49, No. 2, 2019.
- Erman Rajagukguk, "Natural Resource Governance and the Implementation of Article 33 of the Indonesian Constitution," *Jurnal Hukum & Pembangunan*, Vol. 50, No. 1, 2020.
- Gavin Hilson, "Corporate Social Responsibility in the Extractive Industries," *Resources Policy*, Vol. 37, No. 2, 2012.
- Hendra Nurtjahjo, "Penguasaan Negara atas Sumber Daya Alam dalam Perspektif Hukum Konstitusi," *Jurnal Konstitusi*, Vol. 15, No. 1, 2018.
- Hikmahanto Juwana, "Legal Reform in Indonesia's Natural Resource Governance," *Indonesia Law Review*, Vol. 7, No. 3, 2017.
- I Gusti Ayu Ketut Rachmi Handayani, "Normative Legal Research in Legal Studies," *Yustisia: Jurnal Hukum*, Vol. 5, No. 1, 2016.
- Ian Thomson & Robert Boutilier, "Modelling and Measuring the Social Licence to Operate," *Corporate Social Responsibility and Environmental Management*, Vol. 18, No. 3, 2011.
- International Council on Mining and Metals (ICMM), *Mining Principles: Performance Expectations*, London, 2020.
- James Otto, Craig Andrews & Fred Cawood, "Mining Royalties: A Global Study of Their Impact on Investors, Government and Civil Society," *The Extractive Industries and Society*, Vol. 3, No. 2, 2016.
- John R. Owen & Deanna Kemp, "Social Licence and Mining Governance," *Resources Policy*, Vol. 38, No. 1, 2013.
- Law Number 3 of 2020 concerning the Amendment to Law Number 4 of 2009 on Mineral and Coal Mining.

- Lelisari, "Corporate Social Responsibility in the Perspective of Mineral and Coal Mining Law," *Jurnal IUS Kajian Hukum dan Keadilan*, Vol. 9, No. 2, 2021
- M. Ilham F. Putuhena, "Legal Framework of Mineral and Coal Mining Governance in Indonesia," *Jurnal RechtsVinding: Media Pembinaan Hukum Nasional*, Vol. 8, No. 2, 2019
- Maria Farida Indrati, "State Control over Natural Resources in the Indonesian Constitutional System," *Jurnal Konstitusi*, Vol. 16, No. 1, 2019.
- Marilang, "Responsible Mining Governance dalam Sistem Hukum Nasional," *Jurisprudentie: Jurusan Ilmu Hukum*, Vol. 9, No. 1, 2021.
- Mohamad Mova Al'Afghani, "Environmental Governance and Mining Conflicts in Indonesia," *Jurnal Hukum IUS Quia Iustum*, Vol. 25, No. 3, 2018
- Nico J. Schrijver, "Sovereignty over Natural Resources and Sustainable Development," *Netherlands International Law Review*, Vol. 55, No. 1, 2008.
- Nico Schrijver, "Permanent Sovereignty over Natural Resources and Sustainable Development," *Journal of Energy & Natural Resources Law*, Vol. 37, No. 1, 2019.
- Nurul Ichsan, "Legal Politics of Mineral and Coal Mining Regulation in Indonesia," *Jurnal RechtsVinding: Media Pembinaan Hukum Nasional*, Vol. 10, No. 1, 2021.
- Otto Soemarwoto, "Environmental Sustainability and Natural Resource Governance in Indonesia," *Indonesian Journal of Environmental Law*, Vol. 6, No. 1, 2019.
- Peter Cameron & Michael Stanley, "Oil, Gas, and Mining: A Sourcebook for Understanding the Extractive Industries," *Resources Policy*, Vol. 45, 2015.
- Philippe Le Billon, "Extractive Sectors and Inequalities in Resource-Rich Countries," *The Extractive Industries and Society*, Vol. 7, No. 2, 2020.
- Pringgo Susanto, "Community Participation in Natural Resource Governance in Indonesia," *Hasanuddin Law Review*, Vol. 7, No. 2, 2021.
- Rosemary Lyster, "Environmental Regulation of Mining: Balancing Development and Sustainability," *Environmental and Planning Law Journal*, Vol. 30, 2013.
- Simon Kemp & Glenn Owen, "Corporate Social Responsibility in the Mining Industry," *Resources Policy*, Vol. 48, 2016.
- Simon Kemp, *Mining and Community Development: Problems and Possibilities of Local-Level Practice*, *Community Development Journal*, Vol. 45, No. 2, 2010.
- Sri Wartini, "Environmental Governance and Sustainable Mining Regulation in Indonesia," *Hasanuddin Law Review*, Vol. 6, No. 3, 2020.
- Sri Wartini, "Sustainable Development and Environmental Protection in Indonesian Mining Law," *Hasanuddin Law Review*, Vol. 5, No. 3, 2019.
- Sudirman Saad, "Environmental Law Enforcement in Mining Activities in Indonesia," *Hasanuddin Law Review*, Vol. 6, No. 1, 2020.
- Suhardiman Gumanti dkk., "Implementasi Corporate Social Responsibility dalam Pemberdayaan Masyarakat di Wilayah Pertambangan," *Empirika Journal*, Vol. 3, No. 1, 2016.
- The Constitution of the Republic of Indonesia of 1945, Article 33 paragraph (3).
- Tineke Lambooy, "Corporate Social Responsibility and Sustainable Governance in the Extractive Industries," *Journal of Cleaner Production*, Vol. 84, 2014.
- Tony Addison & Alan Roe, "Extractive Industries: The Management of Resources as a Driver of Sustainable Development," *Oxford Review of Economic Policy*, Vol. 34, No. 1-2, 2018.
- Ukar Wijaya Soelistijo, "Corporate Social Responsibility in the Mining Industry," *Indonesian Mining Journal*, Vol. 15, No. 2, 2013.
- W. Riawan Tjandra, "State Control over Natural Resources in the Indonesian Constitutional System," *Jurnal Konstitusi*, Vol. 13, No. 2, 2016
- Wahyu Nugroho et.al., "Kebijakan Pertambangan yang Berkeadilan Ekologis bagi Masyarakat Hukum Adat," *Jurnal Konstitusi*, Vol. 16, No. 3, 2019.