Jurnal Sosial dan Teknologi (SOSTECH)
Volume 6, Number 6, Juni 2026
p-ISSN 2774-5147 ; e-ISSN 2774-5155

# Reconstruction of Mineral and Coal Mining Law Enforcement for The People's Welfare

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**Keywords:**
Law Enforcement;
Mineral and Coal Mining;
Legal Vacuum;
Public Welfare

**Abstract**

As mandated by Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, this study aims to examine and reconstruct Indonesia's mineral and coal mining (minerba) law enforcement, which has not yet fully realized public welfare. This study employed a normative legal research method using statutory and conceptual approaches. The findings show that, despite the provisions contained in Law Number 3 of 2020 concerning Mineral and Coal Mining and Law Number 32 of 2009 concerning Environmental Protection and Management, several significant legal gaps remain, including the lack of integration of strict liability, weak administrative sanctions, the absence of an effective mechanism for restoring community rights, and fragmented supervisory institutions. These gaps have contributed to an imbalance between natural resource exploitation and community welfare, as well as increased environmental degradation. Therefore, a comprehensive reconstruction of law enforcement is needed through the strengthening of administrative sanctions, the integration of the principle of strict liability into the minerba regime, the establishment of a community compensation mechanism, and the reinforcement of integrated cross-sectoral supervision. Furthermore, law enforcement approaches should be directed toward restorative justice and ecological justice, emphasizing environmental restoration and community well-being. Thus, mineral and coal mining law enforcement is expected to serve as an instrument of social justice and environmental sustainability in achieving public prosperity.

## INTRODUCTION

Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that land, water, and the natural resources contained therein "shall be controlled by the state and used for the greatest prosperity of the people" (Murti, 2021). This norm positions the state as a trustee obligated to ensure the equitable distribution of natural resource benefits (Purba, 2024). However, in practice, there has been a paradigm shift from state control oriented toward public welfare to market-oriented exploitation, which tends to position natural resources as economic commodities (Irham, 2024).

This shift is evident in the liberalization of mining management, which has provided significant space for corporations, while local communities around mining areas often do not receive proportional benefits (Dorn & Gundermann, 2022; Huggins et al., 2024; Sánchez-

Picón, n.d.; Warhurst & Noronha, 2024). This indicates a gap between the constitutional mandate and the reality of mineral and coal mining policy implementation. Law Number 11 of 1967 concerning Basic Provisions on Mining, which was investment-oriented, was later replaced by Law Number 4 of 2009 concerning Mineral and Coal Mining. The development of mineral and coal mining regulations shows significant shifts in legal policy, beginning with efforts to prioritize national management and later continuing through Law Number 3 of 2020, which strengthened the role of the central government (Suparji, 2023).

This centralization of authority, as reflected in Article 4, paragraph (2) of the Mineral and Coal Mining Law, places the central government as the primary authority over mineral and coal mining management. However, there is regulatory overlap with Law Number 41 of 1999 concerning Forestry, Law Number 32 of 2009 concerning Environmental Protection and Management, and the regional autonomy system established under Law Number 23 of 2014. This overlap creates normative disharmony, resulting in legal uncertainty and weak intersectoral coordination. The problem of law enforcement in the mineral and coal mining sector has become increasingly complex due to weak supervision and ineffective enforcement against violations (Ihsan et al., 2025; Long et al., 2024; Thakur, 2026). Illegal mining continues to increase, despite Article 158 of the Mineral and Coal Mining Law, which imposes criminal sanctions on illegal mining activities (Ranggalawe, 2023).

Furthermore, corrupt practices in mining permits remain a serious problem that undermines governance in this sector. Violations of reclamation and post-mining obligations, as stipulated in Articles 96 and 99 of the Mineral and Coal Mining Law, are often not followed by strict sanctions (Prianto, 2019). This demonstrates an inconsistency between legal norms (das sollen) and their implementation in practice (das sein), ultimately weakening the legitimacy of the law itself.

The impact of weak law enforcement has created an imbalance between economic benefits and socio-environmental losses. Empirically, mining activities often leave environmental damage, including unreclaimed mine pits, water and soil pollution, and the loss of ecological functions in affected areas (Sanawiah, 2022). Law Number 32 of 2009, through Article 69, paragraph (1), prohibits environmental destruction, but its implementation remains far from optimal. Meanwhile, conflicts between communities and mining companies continue to increase due to the unfair distribution of benefits and minimal protection of community rights (Tutuarima, 2022). The welfare of communities around mining areas has often stagnated or even declined, indicating that natural resource exploitation has not fully realized Article 28H, paragraph (1) of the 1945 Constitution, which guarantees the right to a good and healthy environment and reflects the mandate of social justice (Raharjo, 2025).

The fundamental problem in this context lies in legal gaps in the enforcement of mineral and coal mining law. First, the absence of firm and measurable administrative sanctions related to permit revocation and environmental restoration obligations has weakened the deterrent effect for business actors (Darongke, 2017). Second, although the principle of strict liability is stipulated in Article 88 of the Law on Environmental Protection and Management, this norm has not been operationally integrated into the mineral and coal mining legal regime, making it difficult to implement effectively (Irawan, 2020). Third, there is no clear mechanism for restoring community rights, including direct compensation schemes or class action procedures specific to the mining sector (Maulana, 2023). Fourth,

fragmented supervision among the Ministry of Energy and Mineral Resources, the Ministry of Environment and Forestry, and local governments has resulted in weak institutional coordination (Maduwu, 2024). Fifth, existing post-mining regulations remain largely administrative in nature and do not accommodate community welfare indicators, causing reclamation efforts to have limited impact on improving socio-economic conditions (Adhari, 2017).

Furthermore, the current law enforcement approach, which tends to be repressive and oriented toward criminal sanctions, has not been able to address the complexity of mineral and coal mining issues. Law enforcement focuses primarily on punishing perpetrators without adequately considering environmental restoration and community rights. However, modern legal developments demand restorative justice and ecological justice approaches that prioritize restoration. Therefore, a holistic reconstruction of mineral and coal mining law enforcement is needed by integrating administrative, civil, and criminal legal instruments simultaneously. Legal reform must be directed toward strengthening the implementation of the principles of a green constitution and a welfare state, so that law enforcement functions not only as a means of control but also as an instrument for distributing justice and improving people's welfare in a sustainable manner.

## METHOD

This study used a normative juridical approach supported by statutory and conceptual approaches. The statutory approach was applied by examining relevant regulations, including Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, Law Number 32 of 2009 concerning Environmental Protection and Management, and Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The conceptual approach was used to analyze legal doctrines, theories, and principles related to the welfare state, social justice, strict liability, and ecological justice. Through these approaches, the study formulated an ideal legal construction for reconstructing the enforcement of mineral and coal mining law toward people's welfare.

## RESULTS AND DISCUSSION

### Normative Construction of Mineral and Coal Mining Law Enforcement from a Constitutional and Statutory Perspective

The normative construction of mineral and coal mining (minerba) law enforcement in Indonesia cannot be separated from the constitutional basis set out in Article 33 paragraph (3) of the Republic of Indonesia's 1945 Constitution, which states that the state controls the land, water, and natural resources therein and uses them for the maximum benefit of the populace. This norm legitimizes the state to regulate, manage, and supervise the utilization of natural resources, including the mining sector, with the primary goal of realizing the people's welfare. Furthermore, Article 28H paragraph (1) of the 1945 Constitution also affirms the right of every person to a good and healthy environment, which reinforces the state's obligation to ensure that mining activities do not damage the environment or harm the community. Thus, mineral and coal law enforcement must be understood as a constitutional instrument oriented not only towards legal certainty but also towards social justice and environmental sustainability.

Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining contains the legal requirements for mineral and coal mining. The Mineral and Coal Mining Law's Article 4 paragraphs (1) and (2) say that the central government is in charge of managing minerals and coal, which are non-renewable natural resources. This clause illustrates how the management of the coal and mineral industries is becoming more centralized. Additionally, mineral and coal business activities must be conducted in accordance with the concepts of benefit, justice, and balance, according to Article 5 of the Mineral and Coal Mining Law. However, there is a discrepancy between legal standards and actual circumstances since this normative framework has not been fully and efficiently used in law enforcement.

The obligations of mining business permit holders are stipulated in Article 96 of the Mineral and Coal Mining Law, which includes the obligation to implement good mining engineering principles, manage the environment, and ensure occupational safety and health. Furthermore, Article 99 regulates reclamation and post-mining obligations as a form of corporate responsibility towards the environment after exploitation. To ensure compliance with these provisions, Articles 151 through 165 of the Mineral and Coal Mining Law regulate various types of administrative, criminal, and civil sanctions. However, the weakness of this norm lies in the lack of firmness in the application of administrative sanctions, such as permit revocation and environmental restoration obligations, so that law enforcement often does not provide an optimal deterrent effect.

Law Number 32 of 2009 concerning Environmental Protection and Management is also directly tied to the normative formulation of coal and mineral law enforcement. This law's Article 69, paragraph (1) clearly forbids anyone from doing anything that contaminates or damages the environment. Additionally, Article 88 establishes the notion of strict liability, which holds that anyone in charge of a corporation that harms the environment is accountable without requiring proof of negligence. However, this principle has not been systematically integrated into the Mining Law regime, creating disharmony in norms and complicating its application in law enforcement practices in the mining sector.

Furthermore, mineral and coal law enforcement regulations are inextricably linked to other legal regimes, Conflicts over institutions and norms frequently result from the central and regional governments' overlapping authority in managing natural resources. Despite the centralization of power brought about by the Mineral and Coal Law, in reality, cooperation between the Ministry of Energy and Mineral Resources, the Ministry of Environment and Forestry, and regional governments remains ineffective. This indicates normative weaknesses in the institutional design of law enforcement, resulting in suboptimal oversight and enforcement of violations in the mineral and coal sector.

The normative construction of mineral and coal mining law enforcement in Indonesia demonstrates a lack of synchronization between constitutional norms, sectoral laws, and implementation on the ground. Although various legal provisions formally govern the management and enforcement of mineral and coal law, weaknesses remain in regulatory harmonization, integration of environmental law principles, and the effectiveness of sanction enforcement. Therefore, it is necessary to strengthen normative construction through harmonization of laws and regulations, integration of the principle of absolute responsibility in the mineral and coal regime, and improvement of the institutional system of law

enforcement, so that the constitutional objective of realizing the greatest prosperity for the people as mandated in Article 33 paragraph (3) of the 1945 Constitution can be achieved in real terms.

**Legal Gaps in Mineral and Coal Mining Law Enforcement and Their Implications for Public Welfare**

Legal gaps in mineral and coal mining law enforcement are a fundamental issue that directly impacts the failure to achieve constitutional objectives as mandated in The Republic of Indonesia's 1945 Constitution, Article 33, Paragraph 3. Despite the existence of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining in Indonesia, gaps remain in the regulations, resulting in weak law enforcement effectiveness. These gaps are not only normative but also structural and functional, ultimately impacting the law's inability to guarantee public welfare, particularly those residing in areas surrounding mining areas.

One prominent legal gap is the lack of clear and operational regulations regarding administrative sanctions in the mineral and coal sector. Although the Mineral and Coal Mining Law regulates administrative sanctions, it lacks clear standards for violations that could lead to the revocation of mining business permits, nor does it provide a mandatory and measurable environmental restoration mechanism. Consequently, many violations result in only minor administrative sanctions without providing a significant deterrent effect. This demonstrates that the law is unable to function as an effective control instrument against mining activities that harm the environment and communities.

The inadequate incorporation of the strict liability principle into the mining legal framework is another indication of this legal void. Despite being outlined in Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management, this principle's use in the mining industry is still restricted, and the Mineral and Coal Mining Law lacks a solid practical foundation. As a result, mining operations frequently result in environmental harm, proving fault remains a major obstacle to law enforcement. The situation weakens the position of communities as victims and hinders rapid and effective environmental restoration efforts.

Furthermore, there is a legal vacuum in the mechanism for restoring the rights of communities affected by mining activities. The existing legal system does not yet provide a clear and structured direct compensation scheme for communities affected by mining activities. Furthermore, the class action mechanism, which is actually possible under civil procedural law, has not been specifically accommodated in the mineral and coal sector context, rendering its implementation ineffective. As a result, communities are often in a weak position in defending their rights, whether in economic, social, or environmental aspects.

Another legal gap lies in the institutional aspect, particularly in terms of fragmented oversight and law enforcement. The authority distributed between the Ministry of Energy and Mineral Resources, the Ministry of Environment and Forestry, and local governments is not accompanied by a clear and integrated coordination mechanism. This creates overlapping authority and a lack of responsibility in oversight practices. As a result, many violations in

the mineral and coal sector go undetected or are not optimally followed up on, exacerbating environmental damage and injustice for communities surrounding mines.

Moreover, this legal gap is also evident in post-mining regulations, which are not based on community welfare indicators. The provisions regarding reclamation and post-mining activities in the Mineral and Coal Mining Law tend to be administrative and technical in nature, without substantial provisions regarding companies' obligations to ensure improved community welfare after mining activities cease. Consequently, many ex-mining areas continue to suffer environmental damage and provide no sustainable economic benefits to the community. This situation demonstrates that the law has not been able to bridge the gap between natural resource management and tangible improvements in public welfare.

The implication of these various legal gaps is the imbalance between natural resource exploitation and public welfare. Mining activities, which should be an instrument of development, often result in social, economic, and environmental losses. This demonstrates that the law has not yet functioned optimally as a social engineering tool to achieve justice and prosperity. Therefore, comprehensive legal reform efforts are needed to fill this gap, both through revising laws and strengthening law enforcement institutions, so that mineral and coal management can truly provide the greatest possible benefits for the people's prosperity.

**Reconstruction of Mineral and Coal Mining Law Enforcement Based on Public Welfare**

Reconstruction of mineral and coal mining law enforcement based on public welfare must begin with a repositioning of the legal objectives as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, namely, positioning state control over natural resources as an instrument for realizing public prosperity, not merely economic growth. In this context, law enforcement is no longer understood narrowly as taking action against violations, but as an integrative mechanism that ensures the distribution of benefits, environmental protection, and the restoration of community rights. Therefore, legal reconstruction must aim to strengthen the function of law as a means of social justice and ecological sustainability.

Concretely, the first necessary reconstruction is strengthening the administrative sanctions instrument in Law Number 3 of 2020 concerning Minerals and Coal. It is necessary to formulate clear and operational norms regarding the standards for violations that result in the revocation of mining business permits (IUP), including the implementation of progressive, cumulative administrative sanctions. Furthermore, it is necessary to mandate strict compliance-based environmental restoration obligations with measurable indicators. A concrete action that can be taken is to revise Articles 151–165 of the Mineral and Coal Mining Law to include provisions on environmental restoration deadlines, reclamation success standards, and a blacklisting mechanism for non-compliant companies.

The second reform is to explicitly integrate the principle of strict liability into the mineral and coal legal regime. Although Article 88 of Law Number 32 of 2009 already regulates this principle, it needs to be strengthened in the Mineral and Coal Mining Law so that it can be directly implemented without the obstacle of proving fault. A concrete action that can be taken is the addition of a new article to the Mineral and Coal Mining Law stating that any environmental damage caused by mining activities automatically gives rise to legal liability for permit holders, including obligations for compensation and restoration without

the need for proof of fault. This will strengthen the position of the community and the state in holding corporations accountable.

The third reform is the establishment of a mechanism for systematic and equitable redress for the rights of affected communities. The state needs to introduce a mandatory direct compensation scheme for mining companies and strengthen class action and citizen lawsuit mechanisms in the mineral and coal sector. Concrete actions that can be taken include the establishment of a mining social fund funded by company obligations, and the development of implementing regulations that facilitate public access to justice, including streamlining evidentiary procedures and court financing.

The fourth reform relates to institutional strengthening and integrated cross-sectoral oversight. The fragmentation of authority between the Ministry of Energy and Mineral Resources, the Ministry of Environment and Forestry, and local governments must be addressed through the establishment of an integrated digital-based mining supervision system. Concrete actions that can be taken include establishing a single national mineral and coal data system (one data mining system) containing real-time information on permits, production, reclamation, and environmental compliance, and establishing an independent supervisory body with cross-sectoral authority to conduct audits and take action.

The fifth reform is the transformation of the law enforcement approach from repressive to restorative justice and ecological justice. Law enforcement aims not only to punish perpetrators but also to ensure environmental restoration and community well-being. Concrete actions that can be taken include requiring every legal decision in the mineral and coal sector to include an environmental restoration order and a social recovery program, as well as developing a dispute resolution mechanism based on environmental mediation involving the community, government, and companies.

Reconstruction of mineral and coal law enforcement must be directed toward establishing a legal system oriented toward public welfare (welfare state approach) and environmental sustainability (green constitution). This can be achieved through harmonization of laws and regulations, strengthening the principles of social justice, and integrating community welfare indicators into every stage of mining activities, including post-mining. Concrete actions that can be taken include establishing obligations for companies to develop and implement community empowerment programs based on local needs, and making welfare indicators a prerequisite for successful reclamation and mine closure. Thus, mineral and coal law enforcement will not only serve as a control tool but also as an instrument of social transformation capable of achieving sustainable public prosperity.

## CONCLUSION

Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Law Number 3 of 2020 concerning Mineral and Coal Mining, and Law Number 32 of 2009 concerning Environmental Protection and Management provide a strong normative basis for the enforcement of mineral and coal mining law in Indonesia. However, in practice, various legal gaps, regulatory disharmony, and implementation weaknesses remain, preventing law enforcement from optimally ensuring public welfare. These gaps include weak administrative sanctions, the lack of integration of the principle of strict liability into the mineral and coal mining regime, the absence of an effective mechanism for restoring community rights, and

fragmented supervisory institutions. This situation has resulted in an imbalance between natural resource exploitation and public welfare, as well as increasing environmental damage that has not been accompanied by adequate restoration.

Therefore, comprehensive legal reform is needed through the reconstruction of mineral and coal mining law enforcement based on public welfare and environmental sustainability. The government needs to revise the Mineral and Coal Mining Law by strengthening firm and measurable administrative sanctions, explicitly integrating the principle of strict liability, and establishing an effective mechanism for restoring community rights, including direct compensation schemes and strengthened class action procedures. Furthermore, institutional strengthening is needed through a technology-based, integrated, cross-sectoral monitoring system, as well as a paradigm shift in law enforcement from a repressive approach to restorative justice and ecological justice, which emphasize environmental restoration and social welfare. Thus, law enforcement will function not only as a control mechanism but also as a strategic instrument for realizing social justice, environmental protection, and public prosperity, as mandated by the Constitution.

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