Novum : Jurnal Hukum
Membudayakan Literasi Hukum
Universitas Negeri Surabaya

Legal Policy on Prioritizing Mining Management for Business Entities of Religious Community Organizations: A Prophetic Law Perspective

Syahid Akhmad Faisol[1*], Puja Aqdamuyasyaro P[2], Mowafg Masud[3]

[1] Faculty of Law, UIN Maulana Malik Ibrahim Malang, Indonesia
[2] Faculty of Law, State University of Surabaya, Indonesia
[3]University of Zawia, Libya
[*] 200201320001@student.uin-malang.ac.id

Article

Keywords:
Prophetic Law; Social Organizations; Mining

Abstract

This study analyzes the essence of government legal policy and its relevance to state authority in managing natural resources. It focuses on government legal policies concerning the prioritization of Mining Business Licenses (WIUPK) for religious social organizations from a prophetic legal perspective. This research is normative legal research emphasizing conceptual and legislative approaches. The findings underscore that the essence of government legal policy and its relevance to state authority in natural resource management must be understood as public dominion, wherein the state holds the authority to regulate, manage, implement policies, oversee, and ensure optimal management so that mining activities benefit the Indonesian populace. The prioritization of WIUPK offerings is essentially part of the state's legal policy to ensure that the community is involved and has fair and proportional opportunities to maximize the benefits of mining activities for societal welfare. The policy of prioritizing WIUPK for business entities that are religious social organizations is misaligned with the prophetic legal perspective. It contradicts the mandate of Article 33(3) of the 1945 Constitution of the Republic of Indonesia, which requires mining to be optimized for the greatest prosperity of the people. This study recommends that a judicial review of the Regulation on Mineral and Coal Mining (PP Usaha Pertambangan Minerba) should be pursued before the Supreme Court, as it appears to conflict with Article 2 of the Mineral and Coal Mining Law (UU Minerba), which pertains to the principles and objectives of mineral and coal mining.

INTRODUCTION

Mining is fundamentally an effort to extract, manage, and utilize natural resources within the earth to benefit human life (Putri, 2023). In the Indonesian context, mining activities must be carried out by the constitutional mandate, particularly as stated in Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which affirms that the extraction of natural resources—including

mining—must be controlled by the state and directed toward achieving the prosperity and welfare of the people. The concept of state control over mining activities should be interpreted as a form of public ownership, in which the state plays a central role in regulating, formulating policies, implementing mining operations, and ensuring that oversight of these activities is both optimal and proportionate (Rina Andriani & Sulaiman Kurdi, 2024).

The regulation of mining activities in Indonesia is, among other things, governed by Law Number 4 of 2009 on Mineral and Coal Mining (Minerba Law) and its amendment, Law Number 3 of 2020, which revises the previous law. According to Article 6, paragraph (1), point j, one of the government's authorities in managing mineral and coal mining is to prioritize the offering of Special Mining Business License Areas (WIUPK), which are explicitly granted to holders of Mining Business Licenses (IUP). Further elaboration on the government's authority to prioritize WIUPK offerings is outlined in Article 83A, paragraph (1) of Government Regulation (PP) Number 25 of 2024, which amends PP Number 96 of 2021 on the Implementation of Mineral and Coal Mining Business Activities (Mining Business Regulation). This regulation stipulates that priority WIUPK offerings may be granted to business entities established by religious-based community organizations. This legal policy has sparked both support and criticism across society. Those in favor argue that the government's legal initiative to prioritize WIUPK for religious organizations could serve as a means to empower these organizations, which in turn could lead to broader community empowerment (Abshar-Abdalla, 2024). Conversely, critics view the policy as being driven by pragmatic and political motives, possibly transactional, especially between the government and religious organizations. They also highlight the lack of consideration for sustainable and environmentally responsible development principles. The concern is that this policy opens opportunities for religious organizations to obtain WIUPK preferentially, even though their primary mission is to guide their followers spiritually, rather than engaging in mining business activities (DA, 2024).

In general, the enactment of the Government Regulation on Mineral and Coal Mining Business Activities (PP Usaha Pertambangan Minerba)—which grants priority WIUPK (Special Mining Business License Areas) to business entities affiliated with religious-based community organizations—is widely viewed as deviating from the mandate of the Constitution. The Constitution emphasizes state control and people's welfare as the fundamental purposes of mining activities. This deviation is exemplified by the judicial review filed with the Constitutional Court (Mahkamah Konstitusi/MK) by Rega Felix, a lawyer and academic. He argues that there is neither urgency nor clear parameters that justify such a policy as a form of affirmative action under the law. According to him, the government has failed to provide a sound legal basis for prioritizing these religious organizations to empower communities through mining (Pujianti, 2024). Although the judicial review process is ongoing and no final ruling has

been issued, this legal challenge indicates that the regulation remains highly controversial and is perceived as problematic in the public discourse.

This research is broadly aimed at analyzing two key aspects: (i) the nature of the government's legal policy and its relevance to the state's authority in managing natural resources under Article 33(3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945); and (ii) the government's legal policy concerning the priority offering of Special Mining Business License Areas (WIUPK) to business entities affiliated with religious-based community organizations, examined through the lens of prophetic law. Prophetic law serves as the main perspective for deconstructing and analyzing the legal framework behind the government's policy on WIUPK priority offerings for these organizations. Generally, prophetic law is understood as a legal concept grounded in transcendental values. Law is not regarded solely as a set of positive norms created and agreed upon by humans. Instead, prophetic law recognizes that law contains divine values (divinity) aimed to guide and restrain human actions so that human beings may fulfill their role as earth stewards. Prophetic law is oriented around three foundational aspects: transcendence, liberation, and humanization (Syamsuddin, 2013). These three pillars are essential in ensuring that any legal policy reflects the ethical and spiritual dimensions that define prophetic justice.

There are two key reasons why a prophetic law-based analysis serves as the primary analytical framework for this study: First, prophetic law is highly relevant to this research because it addresses the mining sector, which is inherently linked to environmental sustainability. This directly relates to the three foundational aspects of prophetic law—transcendence, liberation, and humanization—all of which are intrinsically connected to the concept of environmental preservation and the ethical responsibilities of human stewardship over nature. Second, the prophetic law framework is appropriate because the research deals explicitly with the priority offering of WIUPK (Special Mining Business License Areas) to business entities affiliated with religious-based community organizations. Ideally, such organizations are prophetic—not only concerned with their communities' social affairs (muamalah), but also responsible for shaping and upholding their moral (*aqidah*) values.

Three notable scholars have conducted previous research on mining-related issues: First, Jamil (2022) examined the challenges surrounding mining permits following the enactment of Law No. 3 of 2020, which amended Law No. 4 of 2009 on Mineral and Coal Mining. The novelty of Jamil's study (2022) lies in highlighting that the amended law failed to involve or consider the interests of local mining-producing regions, especially concerning the licensing process. Second, Yanto et al. (2023) analyzed the centralization of mining permit authority and its implications for regional income (Yanto, Salbilla, & Sitakar, 2023). The novelty of Yanto et al.'s (2023) research is that there are direct implications of the centralization of mining authority and its implications for regional income. The regions directly impacted by the mining process

are unable to increase their income due to the centralization of the mining permit authority. Third, Putri et al. (2024) focused on mining license management by religious-based community organizations (Putri, Mutiara Fajriatul Izza, Tasya, & Prastika, 2024). The novelty in their study is the argument that there should be an explicit provision in the Mineral and Coal Mining Law regarding the involvement of religious-based community organizations. This would ensure legal certainty and guarantee such organizations' effective and accountable management of mining activities.

Based on the three previous studies mentioned above, this research differs from those conducted by Jamil (2022) and Yanto et al. (2023). This research discusses explicitly the government's legal policy regarding the priority offering of Special Mining Business Permit Areas (WIUPK) to business entities of religious-based community organizations from the perspective of prophetic law. Meanwhile, the studies by Jamil (2022) and Yanto et al. (2023) focused on mining licensing. The study by Putri et al. (2024) is substantively similar in that both address the priority of mining management licenses for religious-based community organizations. However, the main difference between this study and that of Putri et al. (2024) lies in the fact that this research specifically analyzes the priority offering of WIUPK from the perspective of prophetic law, which has not been comprehensively explored in Putri et al.'s study. From the comparison with the three aforementioned studies, it can be concluded that this research is original. The urgency of this research lies in analyzing the government's legal policy related to the priority offering of WIUPK to business entities of religious-based community organizations, particularly from the perspective of prophetic law.

METHOD

This research, which discusses explicitly the priority offering of WIUPK (Special Mining Business Permit Areas) to business entities of religious-based community organizations from the perspective of prophetic law, is a legal study focused on the analysis of legislation, which is examined through legal concepts, theories, principles, and doctrines (Negara, 2023). The primary legal materials used in this study include: The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), Law No. 3 of 2020 on the Amendment to Law No. 4 of 2009 on Mineral and Coal Mining (the Minerba Amendment Law), and Government Regulation No. 25 of 2024 on Amendments to Government Regulation No. 96 of 2021 on the Implementation of Mineral and Coal Mining Business Activities (PP on Mining Business Activities). Primary legal materials include journal articles, books (including e-books), websites, and various research outputs related to mining law. Non-legal materials used include language dictionaries. The approach adopted is both conceptual and statutory. The analysis of legal materials is conducted using a qualitative-prescriptive method, in which existing laws and regulations are analyzed through relevant legal concepts, theories, principles, and doctrines to formulate legal prescriptions for the issue under

discussion (Langbroek, van den Bos, Thomas, Milo, & van Rossum, 2017; Al Amaren, Hamad, Al Mashhour, & Al Mashni, 2020).

RESULTS AND DISCUSSION

A. The Essence of Government Legal Policy and Its Relevance to State Authority in the Management of Natural Resources According to Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia

The legal policy of the state (in this case, the government) in managing natural resources is essentially based on constitutional provisions as stipulated in Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Historically, Article 33 paragraph (3) was formulated by Mohammad Hatta (Indonesia's first Vice President), who emphasized the existence of Indonesia as a governing state, meaning the state is obligated to manage and govern various aspects of public life, particularly in efforts to ensure the prosperity and welfare of the Indonesian people (Aminuddin Kasim, Sutarman Yodo, Surahman, Abdul Muthalib Rimi, Imran, 2023). In line with Mohammad Hatta's thoughts regarding Article 33 paragraph (3), it can be understood that the state holds a central role in managing natural resources (Hariri, 2020). The significance of the state's role in this management is what positions the state as the "holder of power," as firmly stated in Article 33, paragraph (3) of the 1945 Constitution.

The position of the state as the "holder of power" in the management of natural resources must be understood within the context of public law—meaning that the state's right of control refers to its authority to manage, regulate, coordinate, and formulate policies so that the management of natural resources can be directed toward achieving the prosperity of the people (Saputra, Zuhdi, Kusumawardhani, & Novaria, 2023). The goal of achieving public welfare through state control over natural resource management also aligns with the concept of a welfare state. Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) substantively affirms that Indonesia adheres to the principle of a welfare state. When it comes to vital, strategic, and essential matters that support the lives of the people, the state must be present to manage, regulate, and formulate appropriate policies (Khudzaifah Dimyati, Haedar Nashir, Elviandri, Absori, Kelik Wardiono, 2021). Natural resources are, in fact, a vital and strategic component that fulfills the basic needs of the people. Therefore, as mandated in Article 33, paragraph (3) of the 1945 Constitution, the state must manage, regulate, coordinate, and formulate policies to ensure that the use of natural resources contributes to the people's prosperity. One of the critical aspects of natural resource management that must be carried out under this constitutional mandate is related to mining activities.

Article 1, point 1 of the Amendments to the Mineral and Coal Mining affirms that mining is, in principle, an activity oriented toward managing and exploiting mineral

and coal resources, encompassing various processes, procedures, and additional stages. Referring to the provisions of Article 1, point 1 of the amended law, mining can be understood as an activity to extract and manage minerals and coal, which are essentially non-renewable resources. Minerals and coal are non-renewable resources; therefore, their management and utilization must be carried out with great care and must accommodate the principles of environmental conservation and sustainable development (Mohd Fadhil Md Din, Wahid Omar, Shazwin Taib, Shamsul Sarip, 2021). Regarding the Sustainable Development Goals (SDGs), including environmental preservation and the optimization of sustainable energy, these objectives must serve as the main guidelines and framework in mining activities. Such activities must achieve environmental sustainability and long-term development (Woźniak, Pactwa, Szczęśniewicz, & Ciapka, 2022).

The importance of caution and a sustainable development orientation in mining activities is intended to anticipate the negative impacts of mining on society. Research conducted by Wahana Lingkungan Hidup Indonesia (WALHI) confirms that there have been various negative impacts of mining activities in Indonesia up to 2024, including (WALHI, 2024): (i) the expansion of mining areas reaching 5 hectares, of which 2 hectares were originally forest areas, (ii) Indonesia, as the 9th largest coal producer in the world, also contributes to carbon emissions amounting to 600 million tons of CO_2, and (iii) the emergence of community conflicts, particularly related to land or mining territories, which Indigenous peoples mostly occupy. Given these three significant adverse impacts, it is reasonable to demand that mining activities be carried out carefully and cautiously, using environmental conservation and sustainable development principles. Efforts to ensure that mining practices are conducted with care and caution, while accommodating principles of environmental sustainability and sustainable development in legal studies, are generally carried out through licensing instruments. In mining practices, permits are a crucial aspect that enables mining activities to proceed. The licensing instrument, especially mining permits, falls under the authority of the state (in this case, the government) and serves as a means of control and preventive effort to ensure that mining activities do not cause adverse effects on society (Abdillah Dalimunte, Mohammad Gufron AZ2, 2023).

Another orientation related to the authority of the state in mining activities, as regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, is the expansion of the concept of "state control" regarding mining, as reflected in various Constitutional Court Decisions, which in principle affirm that state control in mining activities involves three aspects: First, from a philosophical perspective, the role and presence of the state in mining activities is intended to reinforce the substance of democracy in Indonesia, which should not be understood solely as political democracy, but also as emphasizing the need for economic democracy (Lia Kian, 2021). The essence of economic democracy is crucial for the

state to formulate policies and legal products that can support and realize public welfare. Second, the role of the state regarding mining activities must also refer to Article 33, paragraph (2) of the 1945 Constitution, in which the state holds the authority to control branches of production that are essential to the country and dominate the lives of the people, so that the state must manage them.

The provision of Article 33 paragraph (2) of the 1945 Constitution of the Republic of Indonesia also affirms that mining, which constitutes a branch of production essential to the state and vital to the livelihood of the people, must be regulated and managed by the state through various policies aimed at optimizing the welfare and prosperity of the population (Sri Suatmiati, Feri Tuispani, 2022). Third, the evolving interpretation of "state control" about mining is conceptually affirmed through the orientation of the state's role and authority, which includes: regulation, administrative action, policy implementation, management, and supervision (Sulaiman, 2021; Nasir, Bakker, & van Meijl, 2022). This confirms that the meaning of "state control" in the context of mining must be understood as the state's authority to carry out regulation, administrative governance, policy execution, management, and optimal supervision, to ensure that mining activities contribute to the welfare of the Indonesian people.

Referring to the three aspects of state control in mining activities mentioned above, the role and authority of the state in mining activities are comprehensive, not limited to formulating regulations, but also involving the design and implementation of various policies that can support mining processes in a way that brings benefits to society. About Article 6, paragraph (1) of the Mineral and Coal Mining Amendment Law, as stated in point j, one of the government's authorities related to mineral and coal mining is to offer Special Mining Business Permit Areas (WIUPK) on a priority basis. According to the explanation in the Amendment Law, the objective of offering WIUPK on a priority basis is to provide equal opportunity and a fair and proportional management of natural resources for all parties. From this explanation, it can be concluded that the aim of offering WIUPK on a priority basis, as the Amendment Law mandates, is to implement a mining governance system to achieve the greatest possible prosperity for the people.

B. Government Legal Policy on Priority Offering of WIUPK to Business Entities of Religious Social Organizations from the Perspective of Prophetic Law

The implementation of state control to achieve the prosperity of the people, as regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), is reflected through legal policies in the mining sector. Legal policy is a series of state efforts and legal measures to realize the nation's goals (Widodo, 2019). One of the legal policies in the mining sector is to materialize the state's objective of ensuring public welfare and providing access for society to optimize

the benefits of the mining sector. Referring to Article 6, paragraph (1) of the Mineral and Coal Mining Amendment Law, one of the legal policies formulated by the government is to offer Special Mining Business Permit Areas (WIUPK) on a priority basis. This legal policy of prioritizing the offering of WIUPK is essentially intended to expand public participation and access in the optimal management and utilization of mineral and coal mining resources. Further provisions regarding the priority offering of WIUPK are regulated under the Government Regulation on Mineral and Coal Mining Business Activities.

One key provision that has drawn public attention is Article 83A paragraph (1) of the Government Regulation on Mineral and Coal Mining Business, which grants priority WIUPK (Special Mining Business Permit Areas) to business entities managed by religious social organizations. Substantively, this legal policy affirms that business entities managed by religious social organizations may be given priority in obtaining WIUPK, thereby allowing them to participate in managing and operating mineral and coal mining activities. This legal policy has sparked both support and opposition within society. One proponent of this policy, Ulil Abshar-Abdalla, argues that the policy of granting priority WIUPK to religious social organizations should be examined through the lens of public benefit. From this perspective, the policy can be accepted, as it is believed to bring considerable benefit (*maslahat*) to society (Abshar-Abdalla, 2024). This argument is grounded in a principle of Islamic jurisprudence (*fiqh*) which states, "*idza ta'aradlat al-mafsadatani ru'iya akhaffuhuma*", meaning "when two harms or threats (*mafsadah)* conflict, the lesser harm should be chosen" (Abshar-Abdalla, 2024). Essentially, this justifies that, rather than granting WIUPK to other business entities in the mining sector, it would be more beneficial if such rights were given to business entities under religious social organizations, which are expected to manage mining activities in a way that delivers tangible benefits to the community.

In addition to the arguments supporting the legal policy concerning the prioritization of WIUPK for business entities under religious social organizations, there are also opposing arguments that reject this policy. One of the criticisms is that granting WIUPK on a priority basis to such organizations is, in effect, a veiled attempt at "politicization" by the government—an effort to ensure that religious social organizations consistently support government policies, even when such policies are controversial in society. Another argument against this policy is based on a functional approach, which holds that religious social organizations should ideally focus on religious aspects within society (Derita Prapti Rahayu, Faisal, A. Cery Kurnia, Winanda Kusuma, 2021; Mubarak & Arsyad, 2021). This does not imply that religious social organizations cannot be involved in implementing government policy, but such involvement should be relevant to their core mission. For instance, the government's halal certification program that engages religious organizations is considered appropriate as it aligns with their religious functions and does not create controversy.

From this functional perspective, granting WIUPK on a priority basis to business entities under religious social organizations is considered inappropriate, as the field of mineral and coal mining is irrelevant to the activities or mission of religious social organizations. It still lacks relevance even if the WIUPK is granted to a business entity merely affiliated with or operating under a religious organization. It stands in contradiction to both the orientation and objectives of mining activities as well as the fundamental purpose of religious social organizations.

Regardless of the pro and contra arguments surrounding the legal policy of granting WIUPK on a priority basis to business entities under religious social organizations, amid the various dynamics, two major religious social organizations in Indonesia—Nahdlatul 'Ulama and Muhammadiyah—have ultimately accepted this legal policy (Setiawan, 2024). Since this policy involves religious social organizations, a prophetic law-based analysis is oriented to clarify and deepen the essence of granting WIUPK on a priority basis to such business entities.

Prophetic law is essentially a paradigm, a perspective, and a legal orientation adapted from the concept of prophetic social science as introduced by Kuntowijoyo. Kuntowijoyo views prophetic social science through three key aspects: transcendence, humanization, and liberation (Anisa, Soraya, & Nurdahlia, 2021; Yunianto, 2019). The concept of prophetic law also refers to these three core aspects—transcendence, humanization, and liberation—as its foundational principles. The effort of prophetic law to examine legal matters holistically and deeply is based on three arguments: first, prophetic law essentially emerges as an "antithesis" to legal positivism, which continues to grow in modern rule-of-law states. The central creed of legal positivism is the reliance on formal, written, and authoritative laws, where the state becomes the dominant actor in determining the type, form, and substance of positive law (Fabra-Zamora, 2021). In legal positivism, as long as the law is written and formulated by an authorized official, it is considered valid regardless of its substance (Imam Asmarudin, 2022). Even if the legislative procedure has been correctly followed, the law is deemed valid, even if its content contradicts humanitarian values. 49This view of legal positivism is sharply criticized by prophetic law, which regards law as having a universal, divine dimension. This universality of divinity refers to religious and spiritual values that are inclusive and embrace all groups, ensuring that prophetic law does not fall into the trap of religious exclusivity that tends to be puritanical and destructive (Dodik Setiawan Nur Heriyanto, 2024).

The primary orientation of prophetic law, which places divine values as an essential aspect of law, is implemented through the foundational elements of transcendence, humanization, and liberation. The aspect of transcendence in prophetic law emphasizes using spiritual dimensions in legal practice (Taklima, Sulistiyono, & Syamsudin, 2023). In practice, transcendence includes reading and interpreting legal regulations, focusing on a spiritual and moral reading of law so that universal values

rooted in divinity can be applied. The transcendence aspect in prophetic law also aligns with the effort to explore Pancasila's values in legal contexts, where the divine value serves as the guiding principle for the remaining four principles and values within Pancasila (Putra & Veronica, 2022). Symbolically, this transcendental element is reflected in the preambles of various legal regulations in Indonesia, such as "By the Grace of God Almighty" or in court rulings that must include the phrase, "For the sake of Justice based on the Belief in the One and Only God." The transcendental aspect in prophetic law, borrowing the term from Jimly Asshiddiqie, can be understood as the implementation of the value of a religious nation-state, which forms part of Indonesia's constitutional identity, wherein the divine value—universal and inclusive—serves as a core element of Indonesia's legal state (Asshidiqie, 2020; Prasetio, 2023).

The humanization aspect in prophetic law essentially emphasizes that the existence and essence of human beings are to humanize fellow beings and the universe. When referring to Islamic teachings, the humanization aspect in prophetic law is identical and relevant to the orientation of humans as *Khalifah fil Ardhi*, where humans, in essence, are stewards of the universe. In managing the universe, humans are equal and must be able to humanize the environment, including animals and the natural surroundings (Arba & Israfil, 2021). The orientation of humans as *Khalifah fil Ardhi* aligns with the principle of ecocracy, where humans, as stewards of the universe, with their "humanity," are proportionally allowed to extract and manage natural resources, but are also obliged to preserve and maintain environmental sustainability (Geofrey & Samekto, 2021).

The next aspect of prophetic law is liberation, which relates to "freeing" humanity. Liberation here is interpreted as the effort to affirm and ensure that every human possesses inherent basic rights; therefore, all forms and types of oppression cannot be justified. The liberation aspect in prophetic law is also essentially aligned with the concept of *Maqashid al-Shari'ah* in Islamic law, which emphasizes that the implementation of Islamic law, as articulated by Imam al-Shatibi, aims to protect life, property, lineage or dignity, intellect, and religion or belief (Uyuni, 2021). In its further development, the concept of *Maqashid al-Shari'ah* has also been oriented toward protecting the environment. Thus, its evolving understanding fundamentally emphasizes protecting life, property, lineage or dignity, intellect, religion or belief, and extends toward a sustainable orientation through environmental preservation (Rafiqi, 2024).

Referring to the three aspects of prophetic law mentioned above, the legal policy of granting prioritized WIUPK (Special Mining Business License Areas) to business entities owned by religious community organizations must be analyzed from the perspectives of transcendence, humanization, and liberation. From the transcendence aspect, the policy of prioritizing WIUPK for business entities under religious

community organizations is essentially inappropriate, as the core function and orientation of such organizations are to conduct religious outreach (*dakwah*) and provide spiritual guidance to society. Viewed from the transcendence aspect, religious community organizations may cooperate with or implement government policies as long as these relate to religious outreach, spiritual guidance, and the application of religious teachings in society. An example would be the halal certification policy, which can involve religious community organizations and align with the prophetic law's transcendental aspect. In truth, the transcendence aspect in prophetic law affirms that the prioritization of WIUPK for business entities under religious community organizations contradicts this principle. It diminishes the prophetic orientation of these organizations—namely religious outreach, spiritual guidance, and the implementation of religious teachings—by shifting them toward profit-driven and commercial activities in the mining sector.

Regarding humanization, the legal policy of granting prioritized WIUPK to business entities owned by religious community organizations also contradicts the essence of human values and the spirit of *ecocracy* within prophetic law. Regarding human values under the humanization principle, prioritizing WIUPK for such entities is fundamentally inappropriate, as there are other parties more deserving of priority, such as indigenous law communities who often face conflicts and displacement due to mining activities (Prasetio, 2024). Referring to the Indonesian Dictionary, "priority" means giving precedence to something over another; thus, the prioritized WIUPK allocation implies granting first access to certain parties, in this case, business entities under religious community organizations (Pusat Bahasa Departemen Pendidikan Nasional, 2008). Compared with these organizations, it would be more appropriate to formulate a mining policy that favors indigenous law communities whose presence is often marginalized by the mining industry. Related to the spirit of ecocracy, which is part of the humanization aspect, the legal policy of giving prioritized WIUPK to religious community organizations also cannot be justified. Environmental law emphasizes the *pro natura* principle, which requires that any potential environmental risk be prevented and addressed through specific measures (Aspan & Yunus, 2023). One application of this principle is in *dubio pro natura*, used in court proceedings, meaning that if a judge is in doubt during a trial, they must decide in favor of environmental protection (Mahardika, 2022; Rodrigo Machado Vilani & Lucas Ferrante, 2022). In this context, the legal policy of granting prioritized WIUPK to business entities of religious community organizations fails to uphold caution. It does not apply the *pro natura* principle in the governance of mining. Therefore, it stands in opposition to the humanization aspect of prophetic law.

Viewed from the perspective of liberation, the legal policy of granting prioritized WIUPK to business entities owned by religious community organizations can cause discrimination within society, particularly by creating an impression of "privileging"

religious community organizations in the management of mining. Suppose the orientation of prioritized WIUPK is genuinely meant for the general public. In that case, it should be granted to business entities under all forms of community organizations, rather than exclusively to religious ones. Such a policy may generate social jealousy among business entities affiliated with non-religious community organizations. The implication of this legal policy could result in an exclusive mining governance structure, restricted to state-owned enterprises (BUMN), regionally owned enterprises (BUMD), and religious community organization businesses. This exclusivity contradicts the mandate of Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which emphasizes that the exploitation of natural resources such as mining must be directed toward the greatest possible prosperity of the people.

From the above explanation, it can be concluded that, from the perspective of prophetic law, the legal policy of granting prioritized WIUPK to business entities under religious community organizations is fundamentally inappropriate. It is inconsistent with the three core aspects of prophetic law: transcendence, humanization, and liberation.

CONCLUSION

The essence of government legal policy and its relevance to the state's authority in the management of natural resources, as stipulated in Article 33, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), lies in the interpretation of state control over mining activities. This control must be understood as public control, in which the state holds the authority to regulate, manage, implement policies, administer, and supervise optimally so that mining activities can contribute to the welfare of the Indonesian people. The granting of prioritized WIUPK offerings is essentially part of the state's legal policy to ensure that communities can be involved in mining activities and are given fair and proportional opportunities to benefit from such activities, ultimately aiming to achieve public welfare.

The legal policy of granting prioritized WIUPK (Special Mining Business Permit Areas) to business entities under religious mass organizations is, in essence, inappropriate when viewed from the perspective of prophetic law. From the aspect of transcendence, such a policy diminishes the prophetic orientation of religious mass organizations, such as religious outreach (*dakwah*), spiritual guidance, and the implementation of religious teachings in society, by shifting their focus toward profit and business in the mining sector. From the aspect of humanization, this legal policy also contradicts the core values of humanity and the spirit of *ecocracy*. Moreover, from the aspect of liberation, it may result in the exclusivity of mining management, which conflicts with the mandate of Article 33, Paragraph (3) of the 1945 Constitution of the

Republic of Indonesia (UUD NRI 1945), which states that mining must be optimized for the greatest possible prosperity of the people.

This study recommends that a judicial review of Article 83A Paragraph (1) of the Government Regulation on Mineral and Coal Mining Business should be submitted to the Supreme Court, as it contradicts Article 2 of the Mineral and Coal Mining Law, particularly regarding the principles and objectives of mineral and coal mining, namely justice, balance, and environmental insight.

REFERENCES

Abdillah Dalimunte, Mohammad Gufron AZ2, S. (2023). Legal Problems Related to Mineral and Coal Mining Permits. *Jurnal Cakrawala Hukum*, *1*(1), 76–85. https://doi.org/10.26905/idjch.v14i1.

Abshar-Abdalla, U. (2024). *Isu Tambang, Antara Ideologi dan Fikih*. Retrieved from https://www.kompas.id/baca/opini/2024/06/19/isu-tambang-antara-ideologi-dan-fikih.

Al Amaren, E. M., Hamad, A. M. A., Al Mashhour, O. F., & Al Mashni, M. I. (2020). An introduction to the legal research method: To clear the blurred image of how students understand the technique of legal science research. *International Journal of Multidisciplinary Sciences and Advanced Technology*, *1*(9), 50–55.

Aminuddin Kasim, Sutarman Yodo, Surahman, Abdul Muthalib Rimi, Imran, M. P. (2023). Mining Business Licensing in Indonesia: Perspective on Administrative Law After the Mineral and Coal Law Revision. *Russian Law Journal*, *11*(3), 1248–1255. https://doi.org/10.52783/rlj.v11i3.1538

Anisa, R., Soraya, S. Z., & Nurdahlia, D. U. (2021). Konsep Ilmu Sosial Profetik Kuntowijoyo Terhadap Pengembangan Pendidikan Islam. *Kuttab*, *05*(02), 93–99. Retrieved from http://journalfai.unisla.ac.id/index.php/kuttab/article/view/682%0Ahttps://journalfai.unisla.ac.id/index.php/kuttab/article/download/682/505

Arba, A., & Israfil, I. (2021). Hubungan Hukum Antara Manusia Dengan Tanah, Air Dan Lingkungan Alam Menurut Konsepsi Hukum Islam Dan Hukum Agraria Nasional (UUPA). *Jurnal Risalah Kenotariatan*, *2*(1), 63. https://doi.org/10.29303/risalahkenotariatan.v2i1.23

Aspan, Z., & Yunus, A. (2023). Maintaining Environmental Sustainability Based On Traditional Knowledge: Lessons from Kajang Tribe. *Russian Law Journal*, *9*(1), 69–74. https://doi.org/10.1088/1755-1315/343/1/012067.

Asshidiqie, J. (2020). *Pancasila Identitas Konstitusi Berbangsa dan Bernegara*. Jakarta: Raja Grafindo Persada.

DA, A. T. (2024). *Ormas Penerima Izin Pertambangan Berpotensi Mewarisi Kerusakan Lingkungan dan Konflik Sosial*. Retrieved from https://www.hukumonline.com/berita/a/ormas-penerima-izin-

pertambangan-berpotensi-mewarisi-kerusakan-lingkungan-dan-konflik-sosial-lt666ae56b9c9ca/?page=1?utm_source=website&utm_medium=internal_link_klinik&utm_campaign=izin_tambang_ormas

Derita Prapti Rahayu, Faisal , A. Cery Kurnia, Winanda Kusuma, K. J. F. (2021). Urgensi Badan Hukum Pada Organisasi Kemasyarakatan (Ormas) Berbentuk Perkumpulan (Studi Pokdarwis Desa Kota Kapur, Kecamatan Mendo Barat, Kabupaten Bangka). *Perspektif Hukum*, *21*(2), 185.

Dodik Setiawan Nur Heriyanto, U. G. (2024). A Prophetic Law Approach to Reconciling Indonesia's Uneasy Relationship with Cross-border Surrogacy. *Prophetic Law Review*, *6*(1), 1–20.

Fabra-Zamora, J. L. (2021). Legal Positivism as a Theory of Law's Existence. *Isonomía - Revista de Teoría y Filosofía Del Derecho*, *1*(55), 193–211. https://doi.org/10.5347/isonomia.v0i55.487

Geofrey, M. J. C., & Samekto, F. X. A. (2021). Barriers to enforcing environmental law: An effect of free market domination and regional autonomy in Indonesia. *Hasanuddin Law Review*, *7*(1), 31–45. https://doi.org/10.20956/halrev.v7i1.1896

Hariri, A. (2020). Rekonstruksi Ideologi Pancasila Sebagai Sistem Ekonomi Dalam Perspektif Welfare State. *Jurnal Hukum Replik*, *7*(1), 19. https://doi.org/10.31000/jhr.v7i1.2447

Imam Asmarudin. (2022). Struggle of Legal Positivism Versus Progressive Thoughts in the Formal Tests of the Job Creation Act (Legal Development through Hermeneutics). *Dinamika Hukum*, *22*(1), 144–153. https://doi.org/10.20884/1.jdh.2022.22.1.3178

Jamil, N. R. (2022). Problematika Penerapan Izin Usaha Pertambangan Undang-Undang Nomor 3 Tahun 2020 Tentang Pertambangan Mineral dan Batubara serta Dampak pada Otonomi Daerah. *Staatsrecht: Jurnal Hukum Kenegaraan Dan Politik Islam*, *2*(2). https://doi.org/10.14421/staatsrecht.v2i2.2809

Khudzaifah Dimyati, Haedar Nashir, Elviandri, Absori, Kelik Wardiono, A. B. (2021). Indonesia as a legal welfare state: A prophetic-transcendental basis. *Heliyon*, *7*(8), 1–8.

Langbroek, P., van den Bos, K., Thomas, M. S., Milo, M., & van Rossum, W. (2017). Methodology of legal research: Challenges and opportunities. *Utrecht Law Review*, *13*(3), 1–8. https://doi.org/10.18352/ulr.411

Lia Kian, M. S. (2021). Internalisasi Dan Institusionalisasi Kebijakan Ekonomi Pancasila. *Pancasila : Jurnal Keindonesiaan*, *1*(1), 47.

Mahardika, A. G. (2022). Implikasi Penghapusan Strict Liability Dalam Undang-Undang Cipta Kerja Terhadap Lingkungan Hidup Di Era Sustainable Development Goals. *Legacy : Jurnal Hukum Dan Perundang-Undangan*, *2*(1), 59.

Mohd Fadhil Md Din, Wahid Omar, Shazwin Taib, Shamsul Sarip, S.K. (2021). Humanizing the Localizing Sustainable Development Goals (SDGs) in Education and Research at Higher Education Institutions (HEIs). *Journal of Sustainability Perspectives: 1*(1), 453–460.

Mubarak, S., & Arsyad, A. (2021). Pembubaran Ormas Islam oleh Pemerintah; Studi Komparatif Undang- Undang Ormas dan Hukum Islam. *Shautuna*, *2*(3), 780–795.

Nasir, M., Bakker, L., & van Meijl, T. (2022). Coal Mining Governance in Indonesia: Legal Uncertainty and Contestation. *Australian Journal of Asian Law*, *22*(1), 53–67.

Negara, T. A. S. (2023). Normative Legal Research In Indonesia: Its Origins And Approaches. *ACLJ*, *4*(1), 5.

Prasetio, D. E. (2023). Pancasila sebagai Pengembangan Moral Virtual dalam Perspektif Living Ideology. *Pancasila : Jurnal Keindonesiaan*, *3*(2), 127.

Prasetio, D. E. (2024). Perlindungan Dan Pengakuan Hak Ulayat Masyarakat Adat Biak Papua. *Realism: Law Review*, *2*(1), 54–82.

Pujianti, S. (2024). *Prioritas Pengelolaan Tambang ke Ormas Dipertanyakan*. Retrieved from https://www.mkri.id/index.php?page=web.Berita&id=21329

Pusat Bahasa Departemen Pendidikan Nasional. (2008). *Kamus Bahasa Indonesia*. Jakarta: Departemen Pendidikan Nasional.

Putra, D. A., & Veronica, N. (2022). Pancasila Law State As An Instrument Of Indonesian Legal Politics: Efforts To Achieve A Just Indonesian Legal State. *Pancasila And Law Review*, *3*(2), 149–160.

Putri, Mutiara Fajriatul Izza, Tasya, V. N., & Prastika, A. D. (2024). Urgensi Pemberian Izin Pengelolaan Tambang bagi Organisasi Kemasyarakatan " Keagamaan " di Indonesia : Analisis Regulasi dalam PP Nomor 25 Tahun 2024 Mutiara Fajriatul Izza Putri Viorelia Nabila Tasya Amanda Destiana Prastika Urgensi Pemberian Izin Pengel. *Tarunalaw*, *02*(02), 214–224.

Putri, P. S. (2023). Local communities and transparency in Indonesian mining legislation. *Journal of Energy & Natural Resources Law*, *41*(4), 431–455.

Rafiqi, lham D. (2024). *Pengembangan Hukum Profetik dalam Putusan Hakim Perkara Lingkungan Hidup: Ikhtiar Membumikan Wacana Hukum Langitan*. Malang: UMM Press.

Rina Andriani, & Sulaiman Kurdi. (2024). Regional Government Authority Regarding Mineral and Coal Mining Business Licenses in Indonesia based on Law Number 3 of 2020. *Interdisciplinary Explorations in Research Journal*, *2*(1), 94–110. https://doi.org/10.62976/ierj.v2i1.387

Rodrigo Machado Vilani, Lucas Ferrante, P. M. F. (2022). Brazilian President Bolsonaro's mining agenda threatens Amazonia. *Journal of the Geographical Society*

of Berlin, *153*(4), 3. https://doi.org/10.12854/erde-2022-622

Saputra, T., Zuhdi, S., Kusumawardhani, F., & Novaria, R. (2023). The Effect of Economic Development on Illegal Gold Mining in Kuantan Singingi, Indonesia. *Journal of Governance*, *8*(1), 31–42. https://doi.org/10.31506/jog.v8i1.16883

Setiawan, V. N. (2024). *2 Ormas Keagamaan Terbesar RI Akhirnya Terima IUP Tambang dari Jokowi*. Retrieved from https://www.cnbcindonesia.com/news/20240725231805-4-557735/2-ormas-keagamaan-terbesar-ri-akhirnya-terima-iup-tambang-dari-jokowi

Sri Suatmiati, Feri Tuispani, R. O. (2022). Proliferation Of Unlicensed Mining In Indonesia When The Minerba Law Was Enacted. *Jurnal Sosial Dan Sains*, *2*(11), 1222–12226. Retrieved from http://sosains.greenvest.co.id.

Sulaiman, K. F. (2021). Polemik Fungsi Sosial Tanah dan Hak Menguasai Negara Pasca UU Nomor 12 Tahun 2012 dan Putusan Mahkamah Konstitusi Nomor 50/PUU-X/2012. *Jurnal Konstitusi*, *18*(1), 091. https://doi.org/10.31078/jk1815

Syamsuddin, M. (Ed.). (2013). *Ilmu Hukum Profetik: Gagasan Awal, Landasan Kefilsafatan, dan Kemungkinan Penerapannya di Era Postmodern* (1st ed.). Yogyakarta: FH UII Press.

Taklima, M., Sulistiyono, A., & Syamsudin, M. (2023). Consumer Protection As an Instrument for Fulfilling Human Rights in the Economic Sector and Its Constitutionalizing Efforts in the 1945 Constitution. In *Jurisdictie* (Vol. 14). https://doi.org/10.18860/j.v14i1.20844

Uyuni, B. (2021). Implementation of Maqashid Sharia In Controlling The Growth Of The COVID-19 Virus. *Tahdzib Al-Akhlaq: Jurnal Pendidikan Islam*, *4*(1), 67–81.

WALHI. (2024). *Izin Pertambangan Untuk Ormas Keagamaan: Kado Buruk Jokowi Pada Peringatan Hari Lingkungan Hidup Sedunia*. Retrieved from https://www.walhi.or.id/izin-pertambangan-untuk-ormas-keagamaan-kado-buruk-jokowi-pada-peringatan-hari-lingkungan-hidup-sedunia

Widodo, H. (2019). The Legal Politics of the Inquiry Rights of the House of Representatives Post 1945 Constitutional Amendment. *Journal of Law, Policy and Globalization*, *85*, 123–132. https://doi.org/10.7176/jlpg/85-14

Woźniak, J., Pactwa, K., Szczęśniewicz, M., & Ciapka, D. (2022). Declaration of the Sustainable Development Goals of Mining Companies and the Effect of Their Activities in Selected Areas. *Sustainability (Switzerland)*, *14*(24). https://doi.org/10.3390/su142416422

Yanto, A., Salbilla, F., & Sitakar, R. C. (2023). Implikasi Resentralisasi Kewenangan Pertambangan Timah Terhadap Potensi Pendapatan Daerah Di Bangka Belitung. *Interpretasi Hukum*, *4*(2), 344–357.

Yunianto, C. (2019). Prophetical Law Paradigm: A Synthesis Of Thoughts on Legal

Philosophy Development. *Journal of Transcendental Law*, *1*(2), 104–123. https://doi.org/10.23917/jtl.v1i2.9154