



## Mining Business License Area For Religious Community Organizations In The Perspective Of The Welfare State

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### ABSTRACT

The purpose of this study is to analyze the Special Mining Business Permit Area for Religious Community Organizations in the Perspective of the Welfare State (Welfare State). This study uses normative legal research methods using a legislative approach and a conceptual approach. This study uses the theory of legal certainty, the theory of justice, and the theory of the welfare state as analytical knives in analyzing these problems. The results of the study show that the legal transformation in policies related to Article 83A PP No. 25/2024 is formally irrelevant to the rules above, namely in Law Number 4 of 2009 and Law Number 3 of 2020. However, the rules are still valid and can be implemented responsibly and professionally based on the analysis of legislation and theoretical analysis carried out by researchers, decisions made by government officials have binding force on all members of society, and have a public function, in the sense of performing public services.

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## INTRODUCTION

Indonesia is a country rich in abundant natural resources, making it one of the countries with significant natural resources in the world, including Coal, Oil and Gas, Mineral and Metal Mining, Forestry, Plantations, Fisheries, and Geothermal and Renewable Energy. Indonesia's natural resources play an important role in the country's economic growth, but they also pose challenges related to sustainable management, environmental protection, and equitable distribution of benefits for local communities. Therefore, wise and sustainable management is essential to ensure that this natural wealth can be enjoyed by current and future generations.

The basis for the management of natural resources in Indonesia is Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that in paragraph (2) "The branches of production that are important for the state and that control the livelihood of the people are controlled by the state", paragraph (3) "the earth, water and natural resources contained in it are controlled by the state and used for the greatest possible prosperity of the people". The article has a deep meaning that should be

complied with by state administrators in managing natural resources, including the management of mineral and coal mining. Mining according to Law No. 4 of 2009 concerning Mineral and Coal Mining which is hereinafter referred to as Law No. 4/2009 is part or all of the stages of activities in the context of research, management and exploitation of minerals or coal which include general investigation, exploration and refining, transportation and sales, as well as post-mining activities.

The use of the word "as much as possible prosperity of the people" is the main goal that must be considered together to realize the use of natural resources, which is none other than the prosperity and welfare of the Indonesian people. This is a "das sollen" of the implementation of requests related to natural resources in Indonesia, whatever form of effort is carried out is none other than for the prosperity and welfare of the community. "The right to control the state" and "used for the greatest possible prosperity of the people" are two aspects that cannot be separated, being the basis of the government in managing and carrying out the duties of the community. The higher the intensity of development along with the times, the more natural resources are explored in the territory of the Unitary State of the Republic of Indonesia. Including natural resources from the bowels of the earth, namely mining goods and excavated goods. Potential natural resources in the form of mining goods, oil and natural gas and other minerals found on land and on the seabed of the archipelago.

Mining is the activity of extracting or mining minerals, metals, coal or other excavated land from the earth. Mining activities play an important role in the global economy but are also often the focus of debate regarding their environmental and social impacts. According to Government Regulation Number 25 of 2024 Article 1 Paragraph (1) "Mining is part or all of the stages of activities in the context of the management and exploitation of minerals or coal which include general investigations, exploration, feasibility studies, construction, mining, processing and/or utilization, transportation and sales, as well as post-mining activities."

The state is then given trust by the community and the government for the right to manage the wealth of natural resources that are so abundant that the benefits can be ensured for the benefit of society as a whole. The prosperity of many people in a fair and equitable manner is the ultimate goal of a welfare state that should be realized by the state and government, because natural resource management is an instrument to achieve it. In terms of the utilization of mineral resources, in the derivative of Article 33 of the 1945 Constitution of the Unitary State of the Republic of Indonesia, which can be abbreviated to the 1945 Constitution of the Republic of Indonesia, it is in Article 1 of Law Number 11 of 1967 concerning the main provisions of mining, namely: "All excavated materials contained in the Indonesian mining jurisdiction which are natural deposits as a gift of God Almighty are the National Wealth of the Indonesian Nation, controlled and used by the State for the greatest prosperity of the people."

However, even though the state has the right to manage Indonesia's natural resource wealth, it is not necessarily freely controlled by making the owner of the natural resource wealth. Concretely, the state is not present as the owner of the wealth of natural resources but only has the right to manage and intervene through the policies and rules made. As far as the supervisor who issues mining permits as a legal reference and legitimate legitimacy for business actors to carry out mining activities. Therefore, it can be interpreted that the government as a regulator and policy maker, in this case the state or government has a very important role to provide legal certainty and legal justice to business entities that accept or do not accept mining management rights. The state, hereinafter referred to as the government, has the right to manage and regulate mining natural resources in Indonesia through mechanisms and authorities given by law to the government. The relationship between the government's business rights and the principle of "the greatest prosperity of the people", according to Bagir Manan, the government is charged with state obligations, namely:

- a. Everything in the form of benefits to the earth, water and products obtained from natural resources, must significantly increase the prosperity and welfare of the community.
- b. It is obliged to protect and maintain the rights of the community in and on the earth, water and various wealth obtained both directly and indirectly by the community.
- c. The government should prevent all activities from any party that cause the community not to get their rights from the wealth of its natural resources.

The mining world is not only seen from the technical side of mining, it is an ecosystem in which not only the management problem, but also regulations related to the environment, human dimensions, legal dimensions, and even political and economic dimensions are very important to be studied and considered in the mining world. The implementation of natural resource management, especially in mining business by the government, has many controversies, in substance a comprehensive picture starting from the regulatory framework, theory and even its implementation in the field still raises many problems that are not simple. For example, what happened to PT Freeport Company, mining without a permit, environmental damage and so on.

Therefore, even though the government is a representative of the Indonesian people, it is considered feasible and able to manage mining wisely and its benefits can be felt for the benefit of the community at

large and thinking about negative impacts so that there is a solution to every polemic that arises in people's lives. The current government, with its development, is carrying out reforms to mining laws, recently the government issued a new policy in Article 83A of Government Regulation Number 25 of 2024 concerning Amendments to Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities, namely: "(1) In order to improve community welfare, WIUPK (Special Mining Business Permit Area) can be offered on a priority basis to Business Entities owned by religious community organizations." With the opening sentence "in the context of improving community welfare", this shows that the equitable distribution of community welfare is one of the main elements of the birth of this policy.

The mining business licensing policy through government regulations has given rise to a new polemic, the notion of "Special Enforcement" for business entities owned by community organizations, hereinafter referred to as religious organizations, through WIUPK offerings in priority to be equivalent to state-owned enterprises, namely SOEs and BUMDs. The religious organizations that received mining concessions from the government received mining business permits include Nahdlatul Ulama (NU), Muhammadiyah, the Fellowship of Churches in Indonesia, and the Indonesian Hindu Dharma Parisada.

The government has made special rules for religious organizations that want to manage mining, as stated in Presidential Regulation Number 76 of 2024 concerning Amendments to Presidential Regulation Number 70 of 2023 concerning Land Allocation for Investment Planning. Presidential Regulation Number 76 of 2024 paragraph (2) "Religious Community Organizations as referred to in paragraph (1) must meet the criteria as intended in Article 4 paragraph (6) and have organs that carry out economic activities and aim at the economic empowerment of members and the welfare of the community/people"

The criteria referred to in Presidential Regulation Number 70 of 2023 Article 4 Paragraph (6), namely "Community organizations as referred to in paragraph (5) letter c must meet the following criteria: a) Legal Entity; b) Registered in the information system of the community organization; and c) Managing economic resources, preserving the environment and maintaining norms, ethical values and culture that live in society"

Concessions have the following characteristics:

1. The right to exploit the excavated materials is absolutely in the hands of the concessionaire;
2. Distribution of profits with the government in the form of levies related to mining businesses;
3. Other authorities owned: building various supporting facilities in the concession area.

Government Regulations are rules for implementing the rules contained in the Law, including Government Regulation Number 25/2024 is a regulation that regulates the implementation of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining which has been updated. In this study, the focus is on the polemic of the mining world, namely the existence of new regulations in Government Regulation Number 25/2024 in Article 83A which are considered to violate the parent rules, namely in Law Number 3 of 2020 in Article 75 paragraph 2 and 74 paragraph 1, which reads:

1. Law Number 4 of 2009 concerning Mineral and Coal Mining, Article 74 (1) "IUPK is granted by the Minister with regard to regional interests"
2. Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, Article 75 (2): "IUPK as referred to in paragraph (1) may be given to State-Owned Enterprises, Regional-Owned Enterprises, or Private Business Entities."

The birth of the latest Government Regulation gives birth to norm conflicts and in practice raises pros and cons and debates in various circles, both in terms of formal and material. The birth of the government regulation aims to realize justice and equity so that it is not concentrated on state-owned and private enterprises only. There is also an opinion from academics who state that mining management should be carried out by experts. The Minister of Investment, Bahlil Lahadalia stated that the granting of permits to manage the mining business was motivated by historical factors and the spirit of equity or justice. Religious organizations are seen as having contributed to the era of Indonesia's independence struggle, and religious organizations are seen as having contributed a lot to the protection of the community so that they are considered entitled to the opportunity to contribute to the mining business, which of course the allocation of funds is definitely intended for the prosperity and welfare of the community through religious organizations.

The government has prepared coal mining land that was previously controlled by PT Kaltim Prima Coal (KPC), PT Adaro energy Tbk, and PT Kideco Jaya Agung. Although not all CSOs have yet determined their stance on WIUPK's priority offer from the government. There are three mass organizations that have decided on their stance, namely Nahdlatul Ulama (NU), the Indonesian Bishops' Conference, and Muhammadiyah accepted the offer, the other three (3) have not yet given their stance. Based on the above background presentation, the researcher feels the need to conduct in-depth research related to legal justice for WIUPK provided by the government to business entities owned by religious organizations from the perspective of the theory of the welfare state. Therefore, the researcher's purpose is to formulate and explain the researcher's analysis so that legal certainty related to the conflict of norms that

in practice causes debate in the midst of society and based on the principle of justice that has not been fulfilled from the rule.

Previous research from Ilham Aji Pangestu, a student of the Master of Law Study Program, Sebelas Maret University, Surakarta, in 2016. The thesis entitled "Illegal Mining in Jendi Village, Wonogiri Regency Based on Law Number 4 of 2009 concerning Mineral and Coal Mining" The difference between the research in these articles and the research conducted by the researcher is to discuss illegal mining in Jendi Village, Wonogiri Regency based on Law Number 4 of 2009 concerning Mineral and Coal Mining. Meanwhile, this study discusses the area of special mining business permits for religious organizations from the perspective of the welfare state.

### **Problem Formulation**

Based on the description in the background above, it can be understood that the important and fundamental legal issue in this study is "has the implementation of mining business by religious community organizations met the principle of justice?"

### **Purpose of Writing**

The purpose of writing this journal is to analyze the implementation of mining business by religious community organizations in line with the principle of justice in its application.

### **RESEARCH METHODS**

Each type of research has an important role in developing an understanding of the law, improving the legal system, and solving complex legal problems. The selection of the right type of research depends on the research question asked. In the legal context, the type of research can vary depending on the purpose and focus on the legal issue. In this study, normative research or also known as doctrinal research (doctrinal research) is a research into legal concepts. Normative legal research is a type of legal research that focuses on the study of laws such as laws, regulations, doctrines, and court decisions.

Doctrinal legal research is research that focuses on analyzing primary legal materials and secondary legal materials to provide a systematic exposition of legal rules with each other, explain parts that are difficult to understand a legal rule, and possibly also include predictions of the development of a certain legal rule in the future.

### **RESULTS AND DISCUSSION**

The existence of a new policy from the government through Article 83A PP No. 25 of 2024 concerning Amendments to Government Regulation Number 96 of 2021 concerning the Implementation of Mining Business Activities, requires an in-depth study related to the legal objectives of the latest policy. According to Radbruch (Notohamidjojo, 1975) there are three legal objectives, namely: legal certainty, legal justice and legal utility. In terms of legal certainty, the policy, in the opinion of the researcher, in substance of the policy, can meet the principle of legal certainty, even though it is contrary to the rules above, The above regulations are Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, Article 75 which states that IUPK is given to SOEs, BUMDs and Private Enterprises, and is contrary to Law Number 4 of 2009 concerning Mineral and Coal Mining Article 74 paragraph (1) which states that IUPK is given by the Minister taking into account regional interests. Therefore, this is not in line with the theory of the principle of Lex superior derogate legi inferiori which means that laws and regulations that have a lower degree in the hierarchy of legislation should not contradict the higher ones. In terms of legal benefits, the policy can be ensured for the benefit of the community and for the welfare of the community. However, in terms of legal justice, it is necessary to strengthen whether the policy has met the principle of justice.

According to Hans Kelsen, H.L.A. Hart Jhon Stuart Mill and John Rawls, the theory of justice is a very subjective term. There is justice for social conditions where a person gets satisfaction and happiness and is synonymous with the welfare of society in general. Giving special attention to religious organizations through priority offers to manage mining businesses, through business entities religious organizations must be competent and able to carry out good management of mining businesses by paying attention to the environment and ecology. In the mineral and coal mining sector, there are also regulations related to environmental restructuring and restoration. Therefore, mineral and coal mining must be based on:

- a. Manfaat, justice, and balance
- b. Alignment with the interests of the nation
- c. Participation, transparency, and accountability
- d. Sustainable and environmentally friendly

In the context of WIUPK, the existence of religious organizations is often a topic involving social justice and legal issues. The principle of justice in the policy of religious organizations is given priority by

the government in terms of WIUPK, it depends on balanced social, economic, environmental and legal principles. Because this religious organization is a complex organization in it, it has a very important role with this policy. However, not all religious organizations regulate in a complex way, some of them only focus on the realm of religion. Therefore, not all CSOs accept the policy offer, because it considers professionalism. However, for religious organizations that received the offer, it is a complex religious organization. In the sense that the organization not only regulates the issue of community worship, but in it there are also institutions in charge of education, economics, politics, and so on.

This is in line with Law No. 17/2023, in Article 5 it is explained that the objectives of religious organizations are:

1. Increase community participation and empowerment
2. Providing services to the community
3. Maintaining religious values and belief in God Almighty
4. Preserving and maintaining the norms, values, morals, and culture that live in society
5. Conserving natural resources and the environment
6. Developing social solidarity, mutual cooperation and tolerance in community life
7. Maintaining, maintaining and strengthening the unity and unity of the nation
8. Furthering the country's goals

Then explained in Article 6, the functions of religious organizations:

1. Distribution of activities according to the interests of members and/or organizational goals
2. Coaching and development of members to realize organizational goals
3. Distributor of community aspirations
4. Community empowerment
5. Fulfillment of community services
6. Community participation to maintain, maintain, and strengthen the unity and unity of the nation
7. Maintenance and preservation of norms, values and ethics in the life of society, nation, and state,

The role of religious organizations, which is so important for the sustainability of the life of the nation and state, can be seen and the purpose and function of religious organizations that religious organizations are even strategic partners for the government in building the people and caring for the unity of the nation. The majority of Indonesian people join various forums of religious-based organizations, so it is impossible for religious organizations to stand alone and support themselves, so there must be government collaboration to make it easier for religious organizations to carry out their organizational activities which have been confirmed that these activities are in the nature of helping the government in creating a society that has values and morals so that it can build a better nation in the future. Therefore, the role of religious organizations cannot be denied, it is very strong at a level equal to the government. The existence of WIUPK's priority offer to religious organizations must prioritize the interests of the environment, how it can be balanced in order to achieve justice for all parties, including the community, the environment and parties involved in the mining industry. There are several principles of justice that are urgent to be used as the basis for mining management:

1. Social justice: The principle of social justice emphasizes the equal distribution of benefits from mining activities to all levels of society, especially the most affected. Religious organizations based on their morals and social can act as supervisors or advocates for people living around mining areas. The bus community ensures that:

- a. The community around the mining site benefits fairly, for example in the form of jobs, infrastructure development, or social funds.
- b. The process of granting mining permits involves inclusive and inclusive community participation.
- c. There is no discrimination against certain groups in the distribution of economic benefits.
- d. There is no discrimination against certain groups in the distribution of economic benefits.

2. Environmental justice: Environmental justice is one of the important parts of sustainable mining management. Religious organizations have a strong view of the protection of nature and the sustainability of natural resources as part of their moral mandate to God and to fellow living beings. The principle of justice includes mining management that does not damage the environment and the surrounding ecosystem and pays attention to the principle of sustainability, the application of environmentally friendly technology to reduce natural damage and preserve post-mining resources, and the restoration of the post-mining environment so that people living around mining sites can enjoy sustainable natural resources again.

3. Economic justice: In mining policy, economic justice means that the exploited natural resources must provide equal benefits for all parties. Religious organizations can demand that the profits obtained from mining are not only enjoyed by companies or governments, but also by the surrounding community who are entitled to their fair share. Some of the steps that can be applied in economic justice:

- a. The distribution of mining proceeds is fair, taking into account the needs of local communities and social development.
- b. Enforcement of rules that prevent corruption or abuse of power in natural resource management.

c. Economic empowerment of the community so that they do not depend solely on the mining industry, but also have alternative livelihoods.

4. Intergenerational justice: Religious organizations can affirm that the principle of intergenerational justice is related to the management of natural resources so as not to harm the next generation. In the context of mining, natural resource exploitation activities are not allowed by damaging the environment so that it threatens regeneration. Therefore, by applying the principle of guaranteed management of natural resources, it is carried out in a way that does not damage or deplete these natural resources quickly and thoroughly without any restoration, then conserve the areas damaged by mining so that they can be restored and utilized by future generations.

5. Legal justice: Religious organizations can apply fair and transparent laws in the mining management process, by ensuring that existing regulations are not only in favor of the interests of certain companies or groups. However, it must also fight for the fulfillment of the rights of indigenous or local peoples affected by mining through the recognition of rights to land and natural resources. Religious organizations must also fight for justice in terms of supervision of illegal mining practices or those who do not have a legal mining business license so as not to further damage the environment or harm the community. As well as striving for policies made in mining management based on the principle of justice, not only for momentary profits.

6. Fairness of access to information: Fairness related to transparency and access to sufficient information regarding mining policies and impacts. Religious organizations can fight for the public to have the right to know information about mining activities that affect people's lives, including information related to consolidation of permits, environmental impacts, and post-mining recovery plans.

In its implementation, not necessarily all religious organizations simply carry out mining processing, there are binding rules or criteria. The criteria referred to in Presidential Regulation Number 70 of 2023 Article 4 Paragraph (6), namely: "Community organizations as referred to in paragraph (5) letter c must meet the following criteria: a). Legal entity; b). Registered in the information system of community organizations; and c). Managing economic resources, preserving the environment and maintaining norms, ethical values and culture that live in society". Based on these criteria, it is clear that not all religious organizations freely manage mining businesses. There are criteria that must also be met. Because licensing issues in Indonesia related to natural resource management, in particular, are sensitive and complex.

Especially if faced with sectoral egos, if it is linked to the involvement of religious organizations in mining management, it will definitely have a negative impact. The sectoral ego in question is individuals who are deviant, giving importance to the interests of individuals or certain groups rather than the interests of society as a whole.

The involvement of religious organizations, the negative impact is that if there is a sectoral ego problem, then the first thing is that religious organizations will be triggered to be used as a tool by certain individuals to prioritize themselves not for the common good, because the business entity that manages has different interests from other parties such as the community, the government and the company that manages the mine. Second, the position of religious organizations that have the power to manage mining is feared to be less transparent and accountable because they have never been in the mining realm before, do not understand the working mechanism in the mining sector, so as to cause public distrust. Therefore, there must be strict and systematic supervision. Because speaking transparently and accountably is also not sure that SOEs, BUMDs and Private Enterprises can promise work in accordance with the expectations of the community in general. In the sense that there are still many corruption cases carried out in the mining sector. Many government figures are only concerned with their own interests and certain groups.

The existence of this policy must be ensured to be realized properly and as fairly as possible. Rawls sees that in reality, the distribution of the burden of social benefits such as jobs, wealth, clothing, food, boards, and human rights has not been felt evenly. Factors such as religion, race, social class, and so on, hinder the achievement of justice in its distribution. This happens because of an unhealthy community structure.

If the main field of justice is the basic structure of society, then the main problem is to formulate and justify a series of principles that must be fulfilled by a basic structure of a just society. The principles of social justice should distribute the prospect of obtaining basic goods. Basic needs include; a) Fundamental rights; b) Freedom; c) Power; d) Authority; e) Opportunity; f) Income; g) Welfare. If applied, the principles of justice must do two things:

1. The principle of justice must give a concrete assessment of the fairness of institutional institutions and practices.
2. The principles of justice must guide us in developing policies and laws to correct injustice in the basic structure of society.

The business entity referred to in Article 83A of Government Regulation Number 25 of 2024 concerning Mineral and Coal Mining is located in Article 1 paragraph (28), namely any legal entity engaged in the mining sector that is established under Indonesian law and domiciled in the territory of the Unitary State of the Republic of Indonesia. In Law Number 4 of 2009 concerning Mineral and Coal

Mining, Article 38 states that mining business licenses are granted to: a). business entities; b). cooperatives; c). Individual.

Transformation or legal changes in policies related to Article 83A PP No. 25/2024 need to be carried out to create policies that are not only formally legal, but also meet the principles of justice, legal certainty and support sustainable development. Harmonization with higher laws, strengthening the principle of legal certainty, prioritizing regional interests, alignment with the principles of justice and welfare, transparent and systematic supervision.

Based on the purpose of the mining law, namely: to protect interests related to the mining industry, prevent and minimize conflicts between mining companies and communities in mining areas. With the existence of mining law, there must be mining activities or activities that need to be understood deeply by the Indonesian people. The existence of mining law is a legal rule that regulates mining activities, the purpose of which is:

- a. Protecting the interests of local communities
- b. Environmental protection
- c. guarantee equal profits between the host country and the investor; and ensure the implementation of mining activities by multinational companies.

Referring to the explanation of the purpose of religious organizations that have been explained above, religious organizations aim to:

- a. to increase community participation and empowerment,
- b. providing services to the community,
- c. maintaining religious values and belief in God Almighty,
- d. preserving and maintaining morals and culture that live in the midst of society,
- e. conserving natural resources and the environment,
- f. developing social solidarity, mutual cooperation and tolerance in society,
- g. maintaining, maintaining and strengthening the unity and unity of the nation and
- h. continue the purpose of the budget.

The functions of religious organizations that have a significant impact on the nation and state become partners of the government in carrying out their duties and functions, namely:

- a. the distribution of activities in accordance with the interests of members and/or the objectives of the organization,
- b. coaching and development of members to realize the organization's goals,
- c. distributors of community aspirations,
- d. community empowerment,
- e. fulfillment of community services,
- f. community participation to maintain, maintain and strengthen the unity and unity of the nation,
- g. maintenance and preservation of norms, values and ethics in the life of society, nation and state.

Therefore, the purpose and function are clearly explained in Law No. 17/2023 in Articles 5 and 6. According to the researcher, it is very feasible and appropriate for religious organizations to be given the opportunity to carry out their functions and achieve their goals. As well as being able to take part in the management of natural resources so that the process of organizational life in daily life can be carried out as well as possible and can carry out the functions of religious community organizations as best as possible and achieve goals in accordance with the ideals of the nation and state.

The granting of priority offers for Special Mining Business Permit Areas (WIUPK) by the Government to Religious Organizations in Article 83A of Government Regulation No. 25 of 2024 concerning Amendments to Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Activities is contrary to the rule that IUPK is granted by the Minister (Government) taking into account regional interests. And mining business licenses that should be given to SOEs, BUMDs and Private Enterprises. Related to policy inconsistency in the Government's conflict with related laws. In making policies, the Government should have considered various aspects. As for these policies, the government carries out on the basis of several classifications of interests that must be protected by law:

- a. Public interest
  - 1) The interests of the state as a legal entity
  - 2) The interest of the state as the guardian of the interests of the community
- b. Community interests
  - 1) The importance of peace and order
  - 2) Protection of Social Institutions
  - 3) Prevention of moral deterioration
  - 4) Prevention of rights violations
  - 5) Social welfare
- c. Personal interests

- 1) Individual interests
- 2) Family interests
- 3) Property interests

Therefore, the government's policy of granting mining concessions to religious organizations is not based on interests that only benefit certain parties; However, on the basis of the public interest, namely; based on the interests of the state as a legal entity, as well as the interests of the state as the guardian of the interests of the community, based on the interests of the community, namely; interests in maintaining peace and order in society, providing protection for social institutions, and social welfare. In the government's efforts to carry out its government through the process of making government decisions (*regeringsbesluit*) which are strategic, policy, or general provisions (*algemene bepalingen*), and through government actions (*regeringsmaatregelen*) that uphold public order, state authority laws, and state power. The government's decisions and actions are not directed at specific individuals, but are always general rules, (*algemene regel*) policies, or principles.

As a result of the researcher's analysis related to the above problems, the researcher explained the arguments supporting the government's latest policy on the granting of mining management concessions to religious organizations:

- a. The important role of religious organizations is that they are the organizations with the most followers and almost everyone joins religious organizations, both in terms of management structure and culture. Such a religious organization does not require everyone to join its membership structure, it can be seen simply based on the beliefs and understanding of its ideology and culture inherent in its daily life.
- b. The role of religious organizations in assisting the government in terms of the conditionality of harmony and peace in the midst of society is significant.
- c. Religious organizations play an important role in shaping the character of the community in terms of developing themselves into moral, intellectual and spiritual people.
- d. Compared to the business licenses given to sawasta business entities which will only benefit a few parties, there is no reason to reject the policy of mining management concessions by religious organizations that are definitely for the benefit of the welfare of the community in general.
- e. The government's efforts in terms of equality to realize a just, prosperous and prosperous state life. However, there are several negative impacts if religious organizations manage mining that need more attention from the government, as well as stricter supervision, namely:
  - a. The lack of experience and competence carried out by religious organizations in managing mining leads to poor mining practices.
  - b. Potential internal conflicts that can weaken the organizational structure and hinder the implementation of mining.
  - c. Weak supervision and regulation.
  - d. Local economic instability if income from mining activities is not properly managed.
  - e. Corruption and abuse of power.

Even though the policy is considered to not have a strong source of legitimacy because it is contrary to the norms above. However, the rules are still valid and can be implemented responsibly and professionally. Based on the analysis of legislation and theoretical analysis conducted by researchers, the policies made by the government are in line with the opinion of Peter Leyland which has two main characteristics of public authority, namely:

1. Every decision made by a government official has binding force on all members of society, and;
2. Every decision made by government officials has a public function, in the sense of performing public services.

## CONCLUSION

Transformation or legal changes to policies related to Article 83A PP No. 25/2024 need to be carried out to create policies that are not only formally legal, but also substantially must meet the principles of justice, legal certainty and support sustainable development. The regulation is formally irrelevant to the above rules, namely in Law Number 4 of 2009 and Law Number 3 of 2020. Even though the policy is considered to not have a strong source of legitimacy because it is contrary to the norms above. However, the rules are still valid and can be implemented responsibly and professionally. Based on the analysis of legislation and theoretical analysis carried out by researchers, the policies made by the government are in line with Peter Leyland's opinion which has two main characteristics of public authority, namely: Every decision made by government officials has binding force on all members of society, and every decision made by government officials has a public function, in the sense of performing public services.

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