Small-Scale Artisanal Mining Access Rights: Framing the Welfare State in Realising Social Justice

Arif Rohman Syafruddin Syafruddin, Yahya Ahmad Zein, Arina Silviana
Faculty of Law, Universitas Borneo Tarakan, Indonesia

Article Info
Received: 2024-5-19
Revised: 2024-10-16
Accepted: 2024-12-20

Keywords:
Access rights, mining, mineral and coal, social justice

Abstract
Natural resources are utilized for the development and community welfare. Economic potential, however, is made easy by the community so that illegal mining occurs, even though the government accommodates access rights for the community. The purpose of this article is to analyze the existence of rights for the community to access minerals and coal mining. The approach used is a doctrinal approach. The research results: first, limitations and permit procedures become obstacles to individual access. Secondly, post-mining environmental restoration is imposed on local governments so that it becomes a tug of war in considering economic potential and post-mining obligations, which ultimately hinders the fulfillment of community access rights. As a welfare state, government policies related to this matter should consider allocating community mining areas with potential mineral content and preparing human resources through training to create security for the community and awareness of environmental damage.

I. Introduction

Mineral and coal mining is one of the primary commodities for the government in terms of investment and development.[1] The government policy is to provide revenue targets through PNBP, and it is proven that from year to year, the resulting achievements always reach the target. The achievement of investment realization in the mineral and coal subsector up to 31 December 2023 was USD 7.46 billion, or 96.8% of the 2023 target of USD 7.7 billion. The PNBP plan for 2023 based on Presidential Regulation Number 75 of 2023 stipulated on 10 November 2023 amounted to Rp146.97 trillion. The prognosis of PNBP realization in 2023 reached Rp172.96 trillion or 118.41% of the predetermined target.[2]

This lucrative potential has led to the rampant occurrence of small-scale mineral and coal mining in Indonesia due to the ease of getting instant results. Factors in the occurrence of illegal mining include the ease of carrying out this activity because it does not require special skills.[3] The community assumes that natural resources culturally belong to the local population.[4] But they are politically marginalized, ignored their cultural values, and not given access to these natural resources.

Unequal access to the utilization of natural resources leads to conflict. One of the triggers for conflict in society is the existence of areas that are prospected as

[1] John E. Tilton and Juan Ignacio Guzmán. *Mineral economics and policy*. New York: Routledge, 2016. P. 22. https://doi.org/10.4324/9781315733708

[2] Siaran Pers Kementerian ESDM Nomor: 42.Pers/04/SJI/2024, Kinerja Subsektor Minerba Tahun 2023: PNBP dan Produksi Batubara Meroket, Atur Tegas Reklamasi dan Smelter, diakses pada 24 April 2024.

[3] Ongku P. Hasibuan, Jann H. Tjakraatmadja, and Yos Sunitiyoso. "Illegal gold mining in Indonesia: structure and causes." *International Journal of Emerging Markets*, Vol. 17 No. 1, 2022, p. 177-197. https://doi.org/10.1108/IJOEM-11-2019-0964

[4] Arun Agrawal and Clark C. Gibson. "Enchantment and disenchantment: the role of community in natural resource conservation." *World development*, Vol. 27, No. 4, 1999, p. 629-649. https://doi.org/10.1016/S0305-750X(98)00161-2

mining areas but do not allow access for small communities.[5]

The Ministry of Energy and Mineral Resources identified 2,741 unlicensed mining sites.[6] The rise of illegal or unlicensed mining activities. In addition to damaging the environment and disrupting conservation, the proliferation of illegal mining also harms the State.

The foundation of natural resource management is regulated in Article 33 of the 1945 Constitution, which aims to achieve the prosperity of the people from the content of natural resources, water and earth controlled by the State. The meaning implied in the article needs to be upheld by the State.[7] The allocation of artisanal mining according to Article 67 of Law 3/2020 can be given to individuals and cooperatives. The mining area for artisanal mining is limited to 5 hectares for individuals and 10 hectares for cooperatives.[8] This policy is a transition of justice for the community in obtaining exploration access rights to natural resources. In the simplest terms, a 'just transition' seeks to synthesize environmental, labor, and social justice frameworks by advocating for policies based on equitable sustainability.[9]

The relevant research to this paper includes Samuel J. Spiegel (2012). The results of the research criticize the existence of power struggles over natural resources, including restoring the marginalization of local communities.[10] Second,

[5] Pauline E. Peters, "Inequality and social conflict over land in Africa." *Journal of agrarian change*, Vol. 4, No. 3, 2004, p. 269-314. https://doi.org/10.1111/j.1471-0366.2004.00080.x

[6] Siaran Pers Kementerian ESDM Nomor: 129.Pers/04/SJI/2023, Cegah PETI Meluas, Pemerintah Lakukan Sinergitas dengan Daerah, diakses pada 24 April 2024.

[7] Tri Hayati, "Hak Penguasaan Negara Terhadap Sumber Daya Alam dan Implikasinya terhadap Bentuk Pengusahaan Pertambangan," Jurnal Hukum & Pembangunan, Vol. 49, No. 3, 2019, p. 768-787. https://doi.org/10.21143/jhp.vol49.no3.2199

[8] Pasal 68 UU 3/2020.

[9] Kori Allan and Joanna Robinson, Working towards a green job?: Autoworkers, climate change and the role of collective identity in union renewal, Vol. 64, No. 4, 2022, p. 585-607 https://doi.org/10.1177/00221856221088153

[10] Samuel J. Spiegel, "Governance institutions, resource rights regimes, and the informal mining sector: Regulatory complexities in Indonesia." *World development*, Vol. 40, No. 1, 2012, p. 189-205. https://doi.org/10.1016/j.worlddev.2011.05.015

Gavin Hilson et al (2017), the legalist school (of informality), partly explains how the government creates a bureaucracy that hinders the formalization of small-scale mining activities.[11] Third, Richard Kumah (2022), the research elaborates on the temporary and mobile character of local mining that is not in line with the bureaucratic licensing regime. The regulatory regime takes a general formalization framework that requires an institutional subsystem to control the implementation of mineral and coal mining businesses.[12]

Some of these studies have not mentioned the accessibility of mining for small communities in achieving social welfare. Therefore, this article aims to provide an overview of small-scale mineral and coal mining rights policies for communities in realizing social justice. The framework for the discussion of this article is, firstly, the right to access mineral and coal mining. Second, the conceptualization of the welfare state, and third, social justice as an idea of equal distribution of community rights to mineral and coal mining.

2. Research Method

This research is classified as legal research as the essence of legal research conveyed by L.Cohen, that legal research is the process of finding the law that governs activities in human society.[13] To make it easier to find answers to the questions presented, the approach used is doctrinal, as normative reinforcement, namely analyzing problems using legal theory.[14]

[11] Gavin Hilson, Abigail Hilson, Roy Maconachie, James McQuilken, and Halima Goumandakoye. "Artisanal and small-scale mining (ASM) in sub-Saharan Africa: Re-conceptualizing formalization and 'illegal'activity." *Geoforum*, Vol. 83, 2017, p. 80-90. https://doi.org/10.1016/j.geoforum.2017.05.004

[12] Richard Kumah, "Artisanal and small-scale mining formalization challenges in Ghana: Explaining grassroots perspectives." *Resources Policy*, Vol. 79, 2022, p. 102978. https://doi.org/10.1016/j.resourpol.2022.102978

[13] Peter Mahmud Marzuki, Penelitian Hukum, Edisi Revisi, Kencana, Jakarta, 2021, p. 57.

[14] Muhammad Muhdar, Penelitian Doktrinal dan Non-Doktrinal, Pendekatan Aplikatif dalam Penelitian Hukum, Mulawarman University Press, Samarinda, 2019, p. 8

The primary legal source of this research is Law 3/2020, especially criticizing and analyzing Articles 68 and 70. This research's primary source of legal material is Law 3/2020, especially criticizing and analyzing Articles 68 and 70. The theories used for problem analysis are the welfare state and social justice concepts.

The analysis technique first elaborates on natural resource management through Article 33 of the 1945 Constitution. Second, community access rights to community mining must be assessed. Third, the theoretical approach of the welfare state and social justice. All three are done to determine how social justice can be realized for individual mineral and coal miners.

3. Results and Discussion

Mineral and coal mining policy

Article 33, paragraph (3), contains two important provisions in the management of this sector, namely the control and purpose of control of minerals and coal. The interpretation of Article 33 paragraph (3) has undergone several developments through the Constitutional Court Decision.[15]

Decision Number 36/PUU-X/2012, especially the second and third levels, is

[15] First, Constitutional Court Decision Number 002/PUU-I/2003, *where* the phrase "controlled by the state" is interpreted as a conception of public law relating to the principle of popular sovereignty adopted in the 1945 Constitution, both in the political (political democracy) and economic (economic democracy) fields. Second, the Constitutional Court Decision Number 3/PUU-VIII/2010 benchmarks the element of "people's prosperity," which is the purpose of the act of "control by the state." The decision put forward four benchmarks, namely: (1) the benefits of natural resources for the community; (2) the level of equitable distribution of the benefits of natural resources for the community; (3) the level of people's participation in determining natural resources and (4) respect for the people's hereditary rights in utilizing natural resources.
Constitutional Court Decision Number 36/PUU-X/2012, the form of "control by the state" is a tiered action based on the state's ability to realize the people's prosperity through three levels: (1) Direct management of natural resources; (2) The state makes policies and manages to achieve the goal of achieving the greatest prosperity for the people; and (3) The state carries out regulatory and supervisory functions.

implemented using two principles. First, sustainable development by prioritizing a balance between social, economic, and environmental development. Second, good governance by prioritizing five principles (transparency, participatory, accountability, effectiveness, and efficiency). Although the mineral and coal sector management system uses the principle of balancing social, economic, and environmental development embodied in the concept of *sustainable development*, the fact is that the State tends to prioritize economic development. Thus fading the understanding of law as a tool of social reconciliation.[16]

If we refer to the purpose of mineral and coal management and control as "the greatest prosperity of the people," it is clear that this goal adheres to the principle of a *welfare* state. However, this concept will not be meaningful if the realization of the welfare and prosperity of the people is not balanced with a balance between proportional income distribution.[17]

Considering that the administration of mineral and coal mining is related to licensing (tiered permits), the function of the *welfare state* here is not as an instrument of power alone but is seen as a *service tool (an agency of service)*.[18] Thus, to achieve national development goals, the politics of mineral and coal sector regulatory legislation must consider three principles:[19]

1. Legislation must contain instruments that support the promotion of welfare and social and social justice for all Indonesians;

[16] Irsan dan Meria Utama, "The Political Law on Coal Mining in the Fulfilment of People's Welfare in Indonesia", Sriwijaya Law Review, Vol.3 no. 1, 2019, p. 11-25

[17] Marilang, "Ideologi Welfare State Konstitusi: Hak Menguasai Negara Atas Barang Tambang", Jurnal Konstitusi, Vol. 9, No. 2, 2012, p. 268. https://doi.org/10.31078/jk922

[18] *Ibid*, p. 265.

[19] Bagir Manan. "Politik Perundang-undangan Dalam Rangka Mengantisipasi Liberalisasi

2. Legislation must contain and, at the same time, become an instrument in realizing a democratic and independent Indonesian society;
3. Legislation must contain and, at the same time, act as an instrument that establishes that the Indonesian State is a state based on law and constitution and reflects legal certainty, justice, and truth.

Based on the politics of legislation, the laws must be operational, not just formalistic, because formalistic aspects are often different in content, operation, and results from expectations and desires. Weber said that "the facts of life are juridically 'interpreted' to fit the abstract propositions of law. As a result, the law will never conform to the expectations of ordinary people unless it completely abandons the formal character immanent in it.[20] All forms of law operate in a shared social space and depend on other norms, rules, institutions, and other ways of organizing (customs, morals, etiquette, habits, institutional structures, language, concepts, and ideologies) that are shared.[21]

Conceptualization of the welfare state

The welfare state is an essential institution in the civilization of modern society. The institution referred to here is the role of government in ensuring the protection and economic and social welfare of its citizens.[22] Thus, the government is a tool of human wisdom to fulfill the needs or desires of society. According to Paul Spicker, the welfare state is a means to promote and maintain welfare in society.[23] This view refers to the basic concept of government as a tool of human wisdom to fulfill human interests so that the role of government is significant in realizing the purpose of forming a

[20] Brian Z. Tamanaha. A realistic theory of law. Cambridge University Press, Cambridge, 2017, p. 133.
[21] *Ibid*, p. 196.
[22] Britannica, The Editors of Encyclopaedia. "welfare state". Encyclopedia Britannica, 28 Nov. 2020, https://www.britannica.com/topic/welfare-state. Accessed 13 October 2022, (09:30)
[23] Paul Spicker, The Welfare State: A General Theory, SAGE Publications, London, 2000, p. 106.

government, namely to serve the interests of its citizens.

In summary, Budi Setiyono, as quoted by Sadli Isra, classifies into 3 (three) groups related to the origin of the welfare state concept. First, the *welfare state* is a by-product of the development of capitalist industrial modernization. Second, the welfare state is a result of the pressure of working-class forces struggling to gain rights in the face of capitalist exploitation. Third, the *welfare state* has a functional nature without class conflict:[24]

"The distinguishing characteristic of the Welfare State is the assumption by the community, acting through the State, of the responsibility for providing the means whereby all its members can reach minimum standards of health, economic security and civilised living, and can share according to their capacity in its social and cultural heritage".

According to Paul Spicker, a welfare state can be realized in three ways, namely: encouraging economic development, protecting the rights of its citizens, and promoting social cohesion and basic security.[25] The provision of welfare is not limited to being an end in itself, but can also be a means in realizing other values. To realize a welfare state, it is necessary to pay attention to principles such as *social* justice, equality, and welfare as mutually supportive means.[26] For Spicker, the way to realize welfare against other values can consider social justice, freedom, and human development.[27] Paul Spicker provides the following arguments in realizing welfare:[28]

1. Welfare expresses its moral values but can also promote other moral values.

[24] Paul Spicker, Principles of Social Welfare: an introduction to thinking about the welfare state, Routledge, London, 1988, p. 50.
[25] Paul Spicker, The Welfare State: A General Theory, 2000, *op. cit.*, hlm. 133.
[26] Paul Spicker, Argument for Welfare: The Welfare State and Social Policy, Rowman and Littlefield International, London, 2017, p. 199-200.
[27] *Ibid*, p. 199.
[28] *Ibid*, p. 221-222.

2. Welfare promotes justice through fair, consistent, and proportional distribution.
3. Welfare can promote equality procedurally through rights and access to opportunities, i.e., citizens are given access to civilization and reduced disadvantages.
4. Welfare can promote freedom both individually and socially.
5. It promotes human development to enable the development and use of capabilities.

Equalization of community rights to mineral and coal mining as an idea for the realization of social justice

Referring to the concept of a welfare state, the basis for fulfilling access rights for the community to mineral and coal mining is equality while avoiding losses (environmental damage). In order to maintain the principle of sustainable development.

To realize the sustainable development of mineral and coal mining, 3 (three) aspects need to be considered, namely, economic, social, and environmental benefits that must be carried out in a balanced manner. Mining activities not only pursue economic benefits but also have the same responsibility for society and the environment so that the community's welfare can be achieved.[29]

The State guarantees access rights to the community to participate in the mineral and coal mining business through 2 (two) things: community mining business licenses and community mining areas with the concept of limited area and investment.

However, the norms stipulated in Article 68 paragraph (1) letter a of Law 3/2020 become a polemic against the existence of Article 70 letters c and e because it is not proportional between the rights granted and the obligations, especially for

[29] Irsan dan Meria Utama. "The Political Law on Coal Mining in the Fulfilment of People's Welfare in Indonesia", Sriwijaya Law Review, Vol.3 no. 1, 2019, pp.11-25. http://dx.doi.org/10.28946/slrev..

individuals. The obligation in letter c is to manage the environment with the minister, and letter e is to periodically submit reports on implementing community mining business activities to the minister.

When referring to the phrase "individual," which means a person personally or individually.[30] We know that small individual communities are taboo on administration because the activities carried out are only limited to fulfilling the needs of life and are not oriented towards added value. Procedural bureaucracy triggers illegal mining by the community.[31] The author considers that Article 68 paragraph (1) letter a is massive, non-operational, and tends to adhere to the utilitarian school, which is only concerned with intrinsic interests and only with the interests of individuals in this case, at the level of income enjoyed by the community (although there may be indirect interests in income or rights or freedoms due to their impact on individual interests).[32]

The basic idea of social justice is based on two things: first, social justice is seen primarily as a matter of redistributing goods and resources to improve the situation of the disadvantaged. Second, this redistribution is not seen as a matter of mercy or national interest, but as a matter of the rights of the relatively disadvantaged to make claims on the rest of society.[33] The granting of access rights for communities to mineral and coal mining is a statement of axiomatic values that are fundamental to the economy.

Three assumptions must be considered to achieve social justice in the context

[30] https://kbbi.kemdikbud.go.id/entri/perseorangan, diakses pada 25 April 2024.

[31] Rahayu, Derita Prapti, and Faisal Faisal. "Eksistensi pertambangan rakyat pasca pemberlakuan perubahan undang-undang tentang pertambangan mineral dan Batubara." *Jurnal Pembangunan Hukum Indonesia*, Vol. 3, No. 3, 2021, p. 337-353. https://doi.org/10.14710/jphi.v3i3.337-353

[32] Amartya Sen, Social justice and the distribution of income. In: Atkinson, A.B., Bourguignon, F. (Eds.), Handbook of Income Distribution, Volume 1. Elsevier, Amsterdam, 2000, p. 59-85.

[33] Carl L. Bankston, "Social Justice: Cultural Origins of a Perspective and a Theory." *The Independent Review*, vol. 15, No. 2, 2010, pp. 165–78. *JSTOR*, http://www.jstor.org/stable/24562361. Accessed 25 Apr. 2024.

of fulfilling community access rights to mineral and coal mining. First, there must be a finite society with a definite membership so that a fair share for an individual can be defined concerning the share owned by other members of society, and each individual in a particular 'distribution universe' sees themselves as part of the same social group. Secondly, it must be assumed that there are identifiable institutional structures within which the principles of justice can be applied and which can be modified by these ideals. Thirdly, it must be further assumed that there is an institution, classically the State, which is capable of initiating and directing the institutional changes necessary to create social justice.[34]

This assumption of social justice eliminates individuals' right to access mineral and coal mining. Although the third assumption is constitutionally the State, it will be more effective and efficient if reduced and an institution is formed that oversees community mining both at the ministerial level and the ESDM office in the regions. Given that one of the changes in Law 3/2020 occurred in the transfer of supervisory power over community mining, the special directorate will be more flexible in providing training and education to the community.

4. Conclusion

One of the conclusions resulting from the discussion in this article is that Article 68 paragraph (1) letter a of Law 3/2020 is not operational. The argument used as the basis is that the fulfillment of the right of access to mineral and coal mining for individual communities is limited to formality because they are still burdened with the obligation to report mining business periodically. To maintain this basic idea of social justice, the government's role in realizing social justice is establishing a special

[34] Ben Jackson, "The conceptual history of social justice", *Political Studies Review*, Vol. 3, No. 3, 2005, p. 356-373. https://doi.org/10.1111/j.1478-9299.2005.00028.x

directorate as an institution for handling community mining affairs that provides training and education on the mechanisms and environmental impacts of community mining.

References

Agrawal, Arun and Clark C. Gibson. "Enchantment and disenchantment: the role of community in natural resource conservation." *World development*, Vol. 27, No. 4, 1999, p. 629-649. https://doi.org/10.1016/S0305-750X(98)00161-2

Allan, Kori and Joanna Robinson, Working towards a green job?: Autoworkers, climate change and the role of collective identity in union renewal, Vol. 64, No. 4, 2022, p. 585-607 https://doi.org/10.1177/00221856221088153

Bankston, Carl L., "Social Justice: Cultural Origins of a Perspective and a Theory." *The Independent Review*, vol. 15, No. 2, 2010, pp. 165–78. *JSTOR*, http://www.jstor.org/stable/24562361. Accessed 25 Apr. 2024.

Britannica, The Editors of Encyclopaedia. "welfare state". Encyclopedia Britannica, 28 Nov. 2020, https://www.britannica.com/topic/welfare-state. Accessed 13 October 2022, (09:30)

Disantara, F. P., Permatasari A. B, R. M., Ilmiah, F., & Chansrakaeo, R. (2023). The Integralistic State Idea: Reconstruction of Administrative Efforts Perspective. *Jurnal Daulat Hukum*, *6*(2), 130. https://doi.org/10.30659/jdh.v6i2.30982

Hasibuan, Ongku P., Jann H. Tjakraatmadja, and Yos Sunitiyoso. "Illegal gold mining in Indonesia: structure and causes." *International Journal of Emerging Markets*, Vol. 17 No. 1, 2022, p. 177-197. https://doi.org/10.1108/IJOEM-11-2019-0964

Hayati, Tri, "Hak Penguasaan Negara Terhadap Sumber Daya Alam dan Implikasinya terhadap Bentuk Pengusahaan Pertambangan," Jurnal Hukum & Pembangunan, Vol. 49, No. 3, 2019, p. 768- 787. https://doi.org/10.21143/jhp.vol49.no3.2199

Hilson, Gavin, et al. "Artisanal and small-scale mining (ASM) in sub-Saharan Africa: Re-conceptualizing formalization and 'illegal'activity." *Geoforum*, Vol. 83, 2017, p. 80-90. https://doi.org/10.1016/j.geoforum.2017.05.004

Irsan dan Meria Utama, "The Political Law on Coal Mining in the Fulfilment of People's Welfare in Indonesia", Sriwijaya Law Review, Vol.3 no. 1, 2019, p. 11-25. http://dx.doi.org/10.28946/slrev

Jackson, Ben, "The conceptual history of social justice", *Political Studies Review*, Vol. 3, No. 3, 2005, p. 356-373. https://doi.org/10.1111/j.1478-9299.2005.00028.x

Kumah, Richard, "Artisanal and small-scale mining formalization challenges in Ghana: Explaining grassroots perspectives." *Resources Policy*, Vol. 79, 2022, p. 102978. https://doi.org/10.1016/j.resourpol.2022.102978

Kurniawan, I. G. A. (2022). The Enforcement of Progressive Law: Optimizing Alternative Dispute Resolution as the Implementation of Pancasila Values. *International Conference Towards Humanity Justice for Law Enforcement and Dispute Settlement*, *1*(1), 1–11.

Manan, Bagir, "Politik Perundang-undangan Dalam Rangka Mengantisipasi Liberalisasi Perekonomian", Fakultas Hukum UNILA, Lampung, 1996, p.16.

Marilang, "Ideologi Welfare State Konstitusi: Hak Menguasai Negara Atas Barang Tambang", Jurnal Konstitusi, Vol. 9, No. 2, 2012, p. 268. https://doi.org/10.31078/jk922

Marzuki, Peter Mahmud, Penelitian Hukum, Edisi Revisi, Kencana, Jakarta, 2021, p. 57.

Muhdar, Muhammad, Penelitian Doktrinal dan Non-Doktrinal, Pendekatan Aplikatif dalam Penelitian Hukum, Mulawarman University Press, Samarinda, 2019, p. 8.

Palguna, I. D.G., Welfare State vs Globaisasi: Gagasan Negara Kesejahteraan di Indonesia, Rajawali Press, Depok, 2019, p. v-vi.

Peters, Pauline E. "Inequality and social conflict over land in Africa." *Journal of agrarian change*, Vol. 4, No. 3, 2004, p. 269-314. https://doi.org/10.1111/j.1471-0366.2004.00080.x

Puspatara, R. G., & Kurniawan, I. G. A. (2023). Rethinking Unjust Enrichment: Advancing Distributive Justice in Indonesian Law. *Rechtsidee*, *11*(1). https://doi.org/10.21070/jihr.v12i1.961

Rahayu, Derita Prapti, and Faisal Faisal. "Eksistensi pertambangan rakyat pasca pemberlakuan perubahan undang-undang tentang pertambangan mineral dan Batubara." *Jurnal Pembangunan Hukum Indonesia*, Vol. 3, No. 3, 2021, p. 337-353. https://doi.org/10.14710/jphi.v3i3.337-353

Sen, Amartya, Social justice and the distribution of income. In: Atkinson, A.B., Bourguignon, F. (Eds.), Handbook of Income Distribution, Volume 1. Elsevier, Amsterdam, 2000, p. 59-85.

Siaran Pers Kementerian ESDM Nomor: 129.Pers/04/SJI/2023, Cegah PETI Meluas, Pemerintah Lakukan Sinergitas dengan Daerah, diakses pada 24 April 2024.

Siaran Pers Kementerian ESDM Nomor: 42.Pers/04/SJI/2024, Kinerja Subsektor Minerba Tahun 2023: PNBP dan Produksi Batubara Meroket, Atur Tegas Reklamasi dan Smelter, diakses pada 24 April 2024.

Simbolon, H. P. W., & Kurniawan, I. G. A. (2023). THE EXONERATION CLAUSES IN PARKING PRACTICES: A REVIEW FROM THE PRINCIPLE OF

PROPORTIONALITY AND INCLUSIVE LAW. *JCH (Jurnal Cendekia Hukum)*, *8*(2), 180. https://doi.org/10.33760/jch.v8i2.655

Spicker, Paul, Principles of Social Welfare: an introduction to thinking about the welfare state, Routledge, London, 1988, p. 50.

Spicker, Paul, The Welfare State: A General Theory, SAGE Publications, London, 2000, p. 106.

Spicker, Paul, Argument for Welfare: The Welfare State and Social Policy, Rowman and Littlefield International, London, 2017, p. 199-200.

Spiegel, Samuel J., "Governance institutions, resource rights regimes, and the informal mining sector: Regulatory complexities in Indonesia." *World development*, Vol. 40, No. 1, 2012, p. 189-205. https://doi.org/10.1016/j.worlddev.2011.05.015

Tamanaha, Brian Z. A realistic theory of law. Cambridge University Press, Cambridge, 2017, p. 133.

Taufiq, M., & Disantara, F. P. (2023). The Principle of People's Authoritative Manifestation in Mining Management: An Inclusive Legal Perspective. *SASI*, *29*(3), 442. https://doi.org/10.47268/sasi.v29i3.1329

Tilton, John E. and Juan Ignacio Guzmán. *Mineral economics and policy*. New York: Routledge, 2016. P. 22. https://doi.org/10.4324/9781315733708

https://kbbi.kemdikbud.go.id/entri/perseorangan, diakses pada 25 April 2024.