

Potential Violations of the Right to a Good and Healthy Environment: The Impact of Granting Special Mining Permits on Religious Community Organizations

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Abstract

This study aims to critically examine the potential violations of the constitutional right to a good and healthy environment arising from the government's policy of granting Special Mining Business Permit Areas (WIUPK) to religious community organizations. The urgency of this research is based on concerns that these organizations, lacking adequate technical competence, may exacerbate environmental degradation, perpetuate violations left by previous permit holders, hinder the transition to renewable energy, and obstruct access to justice for victims of environmental harm. Using a normative juridical method with legislative and conceptual approaches, this study analyzes the policy from the perspective of environmental human rights, a focus absent in prior research. The findings reveal that the policy has a strong potential to violate the right to a good and healthy environment and contradicts the state's obligation to protect human rights as guaranteed by the 1945 Constitution. The novelty of this research lies in its emphasis on the conflict of interest between the traditional role of religious organizations as community advocates and their new role as mining operators. Therefore, it is recommended that the government review and revoke the priority granting scheme for WIUPK and consider alternative participation models for religious organizations through non-operational mechanisms such as community development funds or minority non-controlling share ownership.

Keywords: Areas; Healthy Environment; Religious Mass Organizations; Special Mining Business Permit

1. INTRODUCTION

One of the key human rights newly recognized after the amendment of the 1945 Constitution of the Republic of Indonesia is the right to a good and healthy environment, as guaranteed in Article 28H, Paragraph 1. This constitutional right places a corresponding obligation on the state to ensure its fulfillment. The state exercises this responsibility by enacting laws and regulations aimed at protecting the environment. Effective implementation of these legal provisions is crucial to preventing environmental degradation. To uphold environmental rights, the government also develops preventive instruments to mitigate pollution and ecological harm. In addition, it carries out supervision and law enforcement to ensure compliance with environmental protection regulations.

In relation to economic development, mining activities are among the most significant contributors to state revenues.¹ In many countries, business activities support the economic and

¹ Chaudhery Mustansar Hussain, Mosae Selvakumar Paulraj, and Samiha Nuzhat, "Source Reduction and Waste Minimization in the Mining Industries," *Source Reduction and Waste Minimization*, January 1, 2022, 169–76, <https://doi.org/10.1016/B978-0-12-824320-6.00011-3>.

social development of the country because they create jobs, provide income to the state through taxes, fulfill important raw materials in society, increase foreign investment (FDI), and even support infrastructure development in remote and less developed areas.² Mining business activities do provide significant economic benefits, but if the management is poor, they can have a high potential to cause environmental pollution and damage, such as water pollution, land degradation, loss of biodiversity, loss of vegetation cover, and air pollution.³ Which means that mining business activities have the potential to result in violations of the rights of the environment of communities around the mining area.

Looking at national mining governance, it can be seen that the government opens wide opportunities for religious community organizations (hereinafter referred to as mass organizations) to participate in mining business activities.⁴ This opportunity is provided through priority offers to business entities owned by religious community organizations. In this case, the business entity is given an offer for a Special Mining Business License Area (WIUPK).⁵ The legal basis for this government step is Government Regulation No. 25 of 2024, which amends Government Regulation No. 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities and Presidential Regulation No. 76 of 2024 concerning Land Allocation for Investment Arrangement. Based on Article 83a, Paragraph 1 of PP No. 25 of 2024, this step was taken by the government to improve the welfare of the community.

The government's move to offer WIUPK to religious organizations has raised pros and cons. Those who support the government's move consider that this policy will improve the welfare of local communities and religious communities. Meanwhile, opponents consider this policy to be at risk of increasing the potential for environmental damage from mining activities due to the technical and operational unpreparedness of religious organizations that will manage the mine. In addition, the cons also see this step as full of transactional political interests that ignore environmental issues.

The issuance of Special Mining Business Permits (IUPK) by the government should be guided by the principles of prudence and sustainability. However, confusion persists regarding the environmental impacts of granting IUPK to religious mass organizations. As such, this issue warrants further scholarly examination. A review of existing literature indicates that while the policy of granting mining permits to religious organizations has been examined, significant gaps

² Adator Stephanie Worlanyo and Li Jiangfeng, "Evaluating the Environmental and Economic Impact of Mining for Post-Mined Land Restoration and Land-Use: A Review," *Journal of Environmental Management* 279 (February 1, 2021): 111623, <https://doi.org/10.1016/J.JENVMAN.2020.111623>.

³ John R Owen and Deanna Kemp, "Social Licence and Mining: A Critical Perspective," *Resources Policy* 38, no. 1 (2013): 29–35, <https://doi.org/10.1016/j.resourpol.2012.06.016>.

⁴ T Ade Surya and Audry Amaradyaputri Suryawan, "Pelibatan Ormas Keagamaan Dalam Pengelolaan Tambang," *Info Singkat XVI*, no. 15 (2024).

⁵ Amanda Prastika, Mutiara Fajriatul Izza Putri, and Viorelia Nabila Tasya, "Urgensi Pemberian Izin Pengelolaan Tambang Bagi Organisasi Kemasyarakatan" Keagamaan" Di Indonesia: Analisis Regulasi Dalam PP Nomor 25 Tahun 2024," *Taruna Law: Journal of Law and Syariah* 2, no. 02 (2024): 214–24, <https://doi.org/10.54298/tarunalaw.v2i02.216>.

remain. Previous studies have approached this issue from several perspectives. For instance, research by Prastika et al. focused on the urgency and procedural aspects of granting Special Mining Business Permit Areas (WIUPK) to these organizations. Although this study identified eligibility criteria and weighed the policy's advantages and disadvantages, its primary limitation is the failure to consider the social and environmental impacts from a multidisciplinary viewpoint.

Separately, Sholahudin and Maksum analyzed the social and economic effects of the policy, but their research did not include direct empirical data to support their conclusions. Another relevant study by Gumilar and Dirkareshza identified a critical disharmony between the new government regulations and the overarching Mineral and Coal Mining Law, which could lead to negative environmental consequences. However, their analysis did not specifically examine the policy's implications for the fulfillment of constitutional rights.⁶

A review of previous studies clearly shows that none have specifically examined the policy of granting Special Mining Business Permit Areas (WIUPK) to religious organizations from the perspective of fulfilling environmental human rights. The three referenced studies fail to address the direct implications of this policy on the realization of the right to a good and healthy environment as a fundamental human right. This research seeks to fill that critical gap by focusing its analysis on the potential violations of environmental rights as part of the broader framework of human rights protection. The literature review highlights a significant gap: while earlier studies have explored procedural, socio-economic, and regulatory dimensions of granting mining permits to religious organizations, none have investigated how the policy directly affects the fulfillment of environmental rights. The urgency of this study lies in the need for a critical evaluation of the WIUPK policy, which appears to disregard the precautionary principle and the obligation to uphold environmental human rights. This concern is amplified by the risk of environmental rights violations stemming from the involvement of organizations that may lack the technical capacity to manage high-risk mining operations. Therefore, this research aims to address the identified gap by critically assessing the potential violations of the constitutional right to a good and healthy environment resulting from the government's policy. In doing so, it is expected to inform better policy decisions and help safeguard the environmental rights of affected communities.

2. METHOD

This study employs a normative legal research methodology, which is a form of library-based research aimed at identifying and examining legal norms, principles, and doctrines to solve the legal problems at hand. In accordance with this type, the research utilizes two primary

⁶ Egi Rivaldi Gumilar and Rianda Dirkareshza, "Disharmonisasi Pengaturan Pengelolaan Wilayah Izin Usaha Pertambangan Khusus Bagi Organisasi Masyarakat Keagamaan Di Indonesia," *Jurnal Interpretasi Hukum* 5, no. 3 (2024): 1292–1301, <https://doi.org/10.22225/juinhum.5.3.11161.1292-1301>.

approaches.⁷ First, a legislative approach is used to analyze positive law⁸, which includes the 1945 Constitution, the Mineral and Coal Mining Law (UU Minerba), the Environmental Protection and Management Law (UU PPLH), the Human Rights Law, Government Regulation No. 25 of 2024, and Presidential Regulation No. 76 of 2024. Second, a conceptual approach is applied to solve the research problem by using relevant legal concepts and theories, particularly those related to human rights.

The research draws upon primary and secondary legal materials. Primary materials consist of the aforementioned positive laws and regulations, while secondary materials include various legal literature, books, and academic journals relevant to the research questions. The technique for collecting these materials was a library study, which involved systematically gathering all necessary legal documents.⁹ Finally, the analysis technique used is descriptive-qualitative, where all collected legal materials were examined based on positive law, legal concepts, principles, and theories. The results of this examination were then synthesized into a structured legal argument to answer the research problem.

3. RESULTS AND DISCUSSION

3.1 Guarantee of the Right to a Good and Healthy Environment in Applicable Laws and Regulations

Human rights are fundamental entitlements that naturally belong to every person. Without these rights, individuals would be unable to live with dignity or civility. As stated by Miriam Budiarjo, human rights are possessed by every individual simply because they are human. These rights are considered innate and essential, stemming from human nature itself, and are acknowledged universally.¹⁰ A more detailed definition of human rights can be found in Article 1, paragraph 1 of Law No. 39 of 1999 on Human Rights. This article states that human rights are a collection of rights that arise from human nature and their status as beings created by God Almighty. Because these rights are granted by divine grace, they must be upheld and safeguarded by the government, the state, legal systems, and fellow individuals to preserve the dignity of each person.¹¹

In human rights, there are 5 (five) basic principles used as a reference to uphold human rights values, which include: First, equality, which means that equal opportunities are given in their

⁷ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

⁸ Kurdi and Cut Zulfahnur Syafitri, "Legal Reform in Legal Responsibility for the Use of Public Roads for the Transportation of Mining Products (Case Study of Transportation of Mining Products in West Aceh Regency)," *Jurnal Mercatoria* 17, no. 2 (2024): 133–42, <https://doi.org/10.31289/mercatoria.v17i2.12921>.

⁹ Kurdi and Cut Zulfahnur Syafitri, "ESG Dalam Regulasi Hukum KPBU: Upaya Peningkatan Efektivitas Pembangunan Infrastruktur Di Indonesia," *Diversi: Jurnal Hukum* 10, no. 2 (2025): 358–89, <https://doi.org/10.32503/diversi.v10i2.5926>.

¹⁰ Dewi Tuti Muryati, Dharu Triasih, and Tri Mulyani, "Implikasi Kebijakan Izin Lingkungan Terhadap Lingkungan Hidup Di Indonesia," *Jurnal USM Law Review* 5, no. 2 (2022): 693, <https://doi.org/10.26623/julr.v5i2.5773>.

¹¹ Fitrianingsih Nurmalasari, St. Fatmawati Fatmawati L, and M Yusuf, "Penegakan Hukum Tindak Pidana Illegal Mining Terhadap Kerusakan Lingkungan Hidup Di Kabupaten Konawe Utara," *Gorontalo Law Review* 7, no. 1 (2024): 245, <https://doi.org/10.32662/golrev.v7i1.3265>.

fulfillment as equal people. Second, non-discrimination, which means no discrimination based on ethnicity, race, religion, gender, etc. Third, indivisibility, which means that human rights are a unity that cannot be separated. Fourth, interdependence, which means that the rights of one another are interdependent in their fulfillment. Fifth, responsibility, which means that every state, every person, and other entities such as NGOs, corporations, etc., are all obliged to take responsibility for fulfilling and protecting human rights.¹²

The Indonesian constitution safeguards several human rights, including the right to a clean and healthy environment. Viewed from a human rights perspective, it can be said that environmental rights are included in fundamental rights, the nature and characteristics of which do not change despite developments in life.¹³ This right gained broader international recognition through the Stockholm Declaration, which was later reinforced by Principle 4 of the Rio Declaration. This principle highlights the obligation of governments to uphold environmental rights as part of constitutional protections. The 1972 Stockholm Declaration also connects this environmental right with the right to development.¹⁴ According to USAID, there is a strong link between environmental rights and development, particularly in developing nations. In these countries, the exploitation of natural resources often overlooks sustainability, driven by the pursuit of short-term economic gains. This is largely due to high poverty levels and limited attention to environmental restoration. Such practices contribute to environmental degradation, ultimately impacting the well-being of communities. Therefore, ensuring a good and healthy environment is crucial within the framework of state governance.¹⁵

The right to a good and healthy environment is expressly guaranteed in Article 28H, paragraph 1 of the 1945 Constitution. In addition, also in Article 9, paragraph 3 of the Human Rights Law. more explicitly, this right is guaranteed in Law No. 32 of 2009 concerning Environmental Protection and Management (hereinafter referred to as the PPLH Law).¹⁶ One of the objectives of the Law is to guarantee and protect the right to the environment, as mentioned in its consideration.¹⁷ The guarantee of this environmental right is explicitly stated in Article 65, paragraph 1 of the Environmental Law, which states that "Everyone has the right to a good and healthy environment as part of human rights".

¹² Muhammad Ashri, *Hak Asasi Manusia: Filosofi, Teori & Instrumen Dasar* (Makassar: CV. Social Politic Genius (SIGn), 2018).

¹³ Lucretia Dogaru, "Preserving the Right to a Healthy Environment: European Jurisprudence," *Procedia - Social and Behavioral Sciences* 141 (2014): 1346–52, <https://doi.org/10.1016/j.sbspro.2014.05.232>.

¹⁴ Risfalman Risfalman, "Sejarah Perkembangan Hukum Lingkungan Di Indonesia," *Dusturiyah: Jurnal Hukum Islam, Perundang-Undangan Dan Pranata Sosial* 8, no. 2 (2019): 185–96, <https://doi.org/10.22373/dusturiyah.v8i2.4364>.

¹⁵ John H Knox, "Constructing The Human Right To A Healthy Environment," *Annual Review of Law and Social Science* 16, no. 1 (2020): 79–95, <https://doi.org/10.1146/annurev-lawsocsci-031720-074856>.

¹⁶ Dyah Mustika Prasetyaningsih et al., "Effectiveness of Environmental Law Implementation: Compliance and Enforcement," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2022, 215–25, <https://doi.org/10.24090/volksgeist.v5i2.6826>.

¹⁷ Vioneta Rizky Taniaswari and Muthia Sakti, "Consumer Protection in Real Estate Transactions Adjacent to Near River Boundaries," *Jurnal Ius Constituendum* 9, no. 2 (2024): 361–76, <https://doi.org/10.26623/jic.v9i2.9029>.

The right to a good and healthy environment must be fulfilled. Because, as with other rights that are interdependent, the right to the environment and other human rights are interdependent. A clean, healthy, and sustainable environment must be fulfilled for other human rights to be fully enjoyed, such as the right to life, health, food, water, sanitation, and development, among others.¹⁸

While there is no universally accepted definition of environmental rights, it is generally understood that these rights encompass both substantive and procedural aspects. The substantive aspects include various components such as access to clean air, a stable and safe climate, clean water, proper sanitation, nutritious food produced sustainably, a toxin-free environment suitable for living, working, studying, and recreation, as well as the preservation of biodiversity and healthy ecosystems.¹⁹ While the procedural elements of the right to the environment include access to information, the right to participate in decision-making, and the right to have access to justice and effective remedies, including the exercise of these rights safely and free from any threat.²⁰

Unlike other human rights, the right to the environment has special characteristics, one of which is not limited to political boundaries. Where violations of the right to the environment due to environmental pollution or environmental damage, such as pollution, disruption of biodiversity, and global warming, are not limited to political boundaries.²¹ For example, there is transnational environmental pollution. Even violations of this right can have a temporal dimension because they have an impact on the fulfillment of this right for the next generation.²² In the enforcement of environmental rights, it also shows the difficult nature of identifying the exact cause and effect, or the identity of victims of human rights violations, because it often develops over a long period of time. Therefore, it is necessary to take precautions to prevent violations of this right.²³

Despite the comprehensive legal guarantees for a good and healthy environment in Indonesia, the enforcement of these rights in practice remains a significant challenge, creating a notable implementation gap. The natural resource sector, particularly coal mining, exemplifies this issue, with a history of unresolved environmental and social rights violations committed by previous permit holders. Widespread environmental degradation, such as river pollution from acidic water

¹⁸ Firman Husaeni, Nanong Sudarna, and Opik Hidayat, "Politik Hukum Hak Atas Lingkungan Hidup Yang Baik Dan Bersih," *Sharia: Jurnal Kajian Islam* 1, no. 2 (2024): 29–36, <https://doi.org/10.59757/sharia.v1i2.24>.

¹⁹ Dian Ratu Ayu Uswatun Khasanah and Ronald Jolly Pongantung, "Analysis of the Influences of Mood and Emotions on Legal Compliance Levels in Society," *Jurnal Ius Constituendum* 9, no. 2 (2024): 178–93, <https://doi.org/10.26623/jic.v9i2.8820>.

²⁰ UN Human Rights, UNEP, and UNDP, "What Is the Right to a Healthy Environment? Information Note," 2022, <https://www.undp.org/publications/what-right-healthy-environment>.

²¹ Muhammad Sood, *Hukum Lingkungan Indonesia* (Jakarta: Sinar Grafika, 2021).

²² Bridget Lewis, "Environmental Rights Or A Right To The Environment? Exploring The Nexus Between Human Rights And Environmental Protection," *Macquarie Journal of International and Comparative Environmental Law* 8, no. 1 (2012): 36–47.

²³ Syofiarti Syofiarti, "Peran Serta Masyarakat Dalam Pengambilan Keputusan Pada Kegiatan Pertambangan Untuk Mewujudkan Pembangunan Berkelanjutan," *Refleksi Hukum: Jurnal Ilmu Hukum* 7, no. 1 (2022): 19–36, <https://doi.org/10.24246/jrh.2022.v7.i1.p19-36>.

in abandoned mining pits, highlights the weaknesses in monitoring and law enforcement. This context of weak enforcement raises critical concerns regarding the new policy of granting Special Mining Business Permit Areas (WIUPK) to religious organizations. By extending mining permits to entities that may lack the necessary technical capacity and experience in environmental management, the policy risks aggravating existing environmental problems and further undermining the fulfillment of the right to a healthy environment. This situation transforms the WIUPK policy from a purely economic initiative into a critical human rights issue, directly challenging the state's constitutional duty to protect its citizens' environmental rights.

3.2 Potential Violations of the Right to a Good and Healthy Environment as an Impact of Granting Special Mining Business Licenses to Community Organizations

The government opens opportunities for religious organizations to participate in mining business activities by granting an IUPK. Religious mass organizations in this case refer to religious community organizations that have organs that carry out economic activities with the intention of empowering the economy of their members and their people. This government policy officially began on May 30, 2024, with the enactment of PP No. 25 of 2024, which regulates the offering of opportunities to participate in mining activities in Article 83A. It was then followed up with the promulgation of Presidential Regulation No. 76 of 2024 on July 22, 2024. Based on Article 83A of PP No. 25 of 2024, the purpose of this program is to improve the welfare of the community. In addition, in the explanation of article 83A paragraph 1 of PP No. 25 of 2024, it is stated that another objective of this program is to empower the business entities of religious mass organizations. Therefore, WIUPK will be offered on a priority basis to business entities owned by religious mass organizations.

WIUPK that will be given to religious organizations are those that were previously PKP2B (Coal Mining Concession Work Agreement) areas. Thus, the IUP that can be granted is limited to coal mining business activities. Religious organizations that can get this opportunity are those that meet the criteria as stipulated in Article 4, paragraph 6 of Presidential Regulation No. 76 of 2024 and do have organs that carry out economic activities with the aim of empowering the economy of members and the welfare of the community. Based on Article 4, paragraph 6 of Presidential Regulation No. 76 of 2024, the criteria that must be met are: First, a legal entity. Second, it has been registered in the information system for mass organizations run by the government. Third, it has a national scope of activities in accordance with regulations related to mass organizations, and fourth, it could manage economic resources, is able to preserve the environment, and maintains norms, values, ethics, and culture that live in society.²⁴

²⁴ Sutan Sorik and Anang Dwiattmoko, "Pengaturan Hak Asasi Manusia Dan Pelindungan Hukum Masyarakat Adat Di Sektor Usaha Pertambangan," *Mimbar Hukum* 35, no. 1 (2023): 158–91, <https://doi.org/10.22146/mh.v35i1.6461>.

WIUPK offers to religious organizations will be valid for a period of 5 years from the enactment of PP No. 25 Year 2024.²⁵ In this case, the Minister of Sector Development is authorized to delegate the offer, determination, and granting of WIUPK. The delegation is given to the minister/head of the agency in charge of organizing government affairs in the field of investment/investment, who will then act as chairman of the Task Force. The head of the Task Force will then grant WIUPK to a business entity owned by a mass organization. From this grant, the CSO business entity will apply for an IUPK through the OSS System to be issued an IUPK.²⁶ The IUPK that has been granted, as well as the share ownership, can only be transferred with the approval of the Minister of Energy and Mineral Resources. It is the shareholder of this religious organization that will become the controller.

The government's policy of granting IUPK has raised various criticisms. One of them is from Ismail Rumadan as PRH BRIN Researcher, who explains that the policy setting of granting IUPK to religious mass organizations contradicts Article 75 paragraphs (2) and (3) of the Minerba Law No. 3 of 2020, which stipulates that the priority for granting IUPK is only to BUMN and BUMD. According to the researchers themselves, offering WIUPK to religious organizations could potentially violate the right to a good and healthy environment for several interconnected reasons.

The most immediate risk stems from the potential for heightened environmental degradation and pollution due to inadequate technical expertise, limited experience, and insufficient competence in managing coal mining operations. It is important to clarify that this critique is not directed at the ideological or social capacity of religious organizations, but rather at the objective mismatch between their established competencies and the highly specialized, capital-intensive, and technologically demanding nature of modern coal mining operations. This concern is strengthened by core principles of environmental law, such as the Polluter Pays Principle, which mandates that the entity responsible for potential pollution must possess the proven financial and technical capacity to prevent, mitigate, and remedy environmental damage from the outset. The priority offering scheme arguably bypasses the rigorous vetting required to ensure this capacity. The potential negative impacts are extensive, affecting all substantive elements of the right to a healthy environment. For instance, air quality can be severely impacted when coal mining is managed by parties lacking the necessary skills, through mechanisms like wind-blown dust, chemical oxidation of waste material, and operational pollution from transport and crushing. Improperly managed mining also poses long-term health risks to surrounding communities, including cancer and respiratory diseases. Furthermore, a safe climate is jeopardized by greenhouse gas emissions, access to clean water is threatened by aquifer depletion and

²⁵ Raymond Webrah Kazapoe et al., "Relationship between Small-Scale Gold Mining Activities and Water Use in Ghana: A Review of Policy Documents Aimed at Protecting Water Bodies in Mining Communities," *Environmental Challenges* 12, no. May (2023), <https://doi.org/10.1016/j.envc.2023.100727>.

²⁶ Asti Wasiska, "Analisis Kebijakan Hukum Tentang Pengelolaan Izin Usaha Pertambangan Diberikan Kepada Organisasi Masyarakat (Ormas)," *Jurnal Darma Agung* 33, no. 1 (2025): 302–16, <https://doi.org/10.46930/ojsuda.v33i1.5463>.

contamination, and biodiversity is impacted by habitat destruction and pollution. The high risk of these environmental impacts underscores the necessity of proven technical capabilities, which religious business entities may not possess, thus making the granting of IUPK to them contrary to the right to a good and healthy environment.

Beyond these prospective risks, the policy also creates immediate challenges by forcing religious organizations to inherit past environmental violations. The WIUPK offered are explicitly from former PKP2B areas, many of which carry a legacy of unresolved environmental and social rights violations, including mining pits left open with acidic water that pollutes river ecosystems. There is a significant risk that these unresolved violations will persist or even worsen under the management of organizations lacking the technical expertise for remediation. This policy also creates a paradoxical situation that could prevent the shift towards renewable energy, a transition that religious organizations have already begun to champion. Major organizations like Muhammadiyah and Nahdlatul Ulama (NU) have initiated programs and concepts promoting renewable energy. Involving them in the coal industry, a source of non-renewable energy with a high environmental impact, directly contradicts their progressive environmental movements and hinders their established role in supporting a sustainable energy transition.²⁷

Perhaps the most profound implication is the policy's potential to obstruct the provision of access to justice by neutralizing the traditional role of religious organizations as advocates for environmental rights. Historically, these organizations have provided crucial support and advocacy for community members who are victims of environmental rights violations, as seen in NU's assistance to communities in the Wadas Village conflict. This essential advocacy role cannot be effectively performed if the organizations themselves become mining operators.²⁸ This creates a fundamental conflict of interest, positioning the organization as both a potential perpetrator of environmental harm and a defender of its victims. Critically analyzing this dual, contradictory role, a focus absent in previous studies, is a key novelty of this research.

Given these multifaceted risks, it can be concluded that granting IUPK to religious mass organizations via priority offering can potentially violate the right to a good and healthy environment. Instead, these organizations should follow the standard procedure stipulated in Article 75, paragraph 4 of the Minerba Law, where private business entities obtain IUPK through a WIUPK auction. This process ensures that the winning entity possesses qualified administrative, technical, and financial capabilities, as these are the determining criteria in the auction. The disharmony between the regulations is detailed in the following table:

²⁷ BBC News, "Presiden Jokowi Izinkan Ormas Keagamaan Kelola Tambang - Rawan 'Konflik SARA' Dan 'Alat Perusahaan', Kata Pegiat Lingkungan," BBC Indonesia, 2024, <https://www.bbc.com/indonesia/articles/c1ddgk11v0yo>.

²⁸ Tim T. Werner et al., "Patterns Of Infringement, Risk, And Impact Driven By Coal Mining Permits In Indonesia," *Ambio* 53, no. 2 (2024): 242–56, <https://doi.org/10.1007/s13280-023-01944-y>.

Table 1. Comparison of IUPK Granting Arrangements in the Minerba Law with Government Regulation No. 25 Year 2024

Aspects	Minerba Law	PP No. 25 Tahun 2024
Article reads	Article 75 (2) IUPK, as referred to in paragraph (1), may be granted to BUMN, regionally owned enterprises, or private business entities. (3) SOEs and regionally owned business entities, as referred to in paragraph (2), shall receive priority in obtaining IUPK. (4) Private business entities as referred to in paragraph (21) to obtain IUPK shall be carried out by means of a WIUPK auction. (5) WIUPK auction, as referred to in paragraph (4), shall be conducted by the Minister and carried out by considering: - the area of WIUPK to be auctioned; - administrative/management capability - technical capability and environmental management; and - financial capability. (6) Further provisions regarding the auction as referred to in paragraph (4) shall be regulated by or based on Government Regulation.	Article 83A (1) In the context of improving community welfare, WIUPK may be offered on a priority basis to Business Entities owned by religious community organizations. (2) WIUPK, as referred to in paragraph (1), is an ex-PKP2B area.
Regulatory Implications	Only BUMN and BUMD can obtain IUPK on a priority basis. Meanwhile, private business entities, including religious organizations, can obtain IUPK by participating in the WIUPK auction. By participating in the WIUPK Auction, religious organizations must have met the requirements, namely having administrative/management capabilities, technical and environmental management capabilities, and financial capabilities. All of these capabilities are intended to	Religious organizations, as a form of private business entity, actually obtain IUPK on a priority basis, like BUMN and BUMD, not through an auction.

ensure that bidders have the capability to
carry out coal mining business activities.

This contradiction, where a lower regulation (Government Regulation) conflicts with a higher one (the Minerba Law), makes the policy legally contestable under the principle of *lex superior derogat legi inferiori*.²⁹ Therefore, the government's policy requires a thorough review. Requiring participation via the auction mechanism is not meant to exclude these organizations, but to uphold good mining governance by ensuring all operators meet stringent capability standards.³⁰ Alternatively, more suitable participation schemes could be designed, such as allowing organizations to benefit through community development funds or non-controlling shares in a joint venture where a certified mining company retains full operational control. Such models would allow them to achieve their welfare objectives without directly bearing the immense technical, financial, and environmental risks of mine operation.

4. CONCLUSION

This study was conducted to critically examine the potential violations of the constitutional right to a good and healthy environment resulting from the government's policy of prioritizing the granting of Special Mining Business Permit Areas (WIUPK) to religious community organizations. Based on the normative juridical analysis, it was found that the policy poses a significant risk of violating environmental rights due to the lack of technical mining competence among recipient organizations, the inheritance of unresolved environmental violations from previous permit holders, the obstruction of renewable energy transition, and the erosion of the advocacy role traditionally held by these organizations in protecting environmental victims. The novelty of this research lies in its use of an environmental human rights perspective, an approach largely absent in previous studies, particularly in highlighting the inherent conflict of interest when organizations are positioned as both mining operators and community defenders. Therefore, it is concluded that the policy contradicts the state's constitutional obligation to protect environmental rights. This study recommends that the government urgently review and revoke the priority scheme for WIUPK allocation and instead develop alternative participation models that are non-operational in nature, such as channeling benefits through community development funds or allowing minority, non-controlling share ownership in partnership with certified and competent mining companies.

²⁹ Sri Wijayanti et al., "Norm Clash in Lex Superior Derogate Legi Inferiori Principle's Implementation on Circular Letters and Laws," *Reformasi Hukum* 28, no. 3 (2024): 234–50, <https://doi.org/10.46257/jrh.v28i3.732>.

³⁰ Syofyan Hadi and Tomy Michael, "Implikasi Hukum Resentralisasi Kewenangan Penyelenggaraan Urusan Konkuren Terhadap Keberlakuan Produk Hukum Daerah," *Jurnal Wawasan Yuridika* 5, no. 2 (2021): 267–8a9.

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