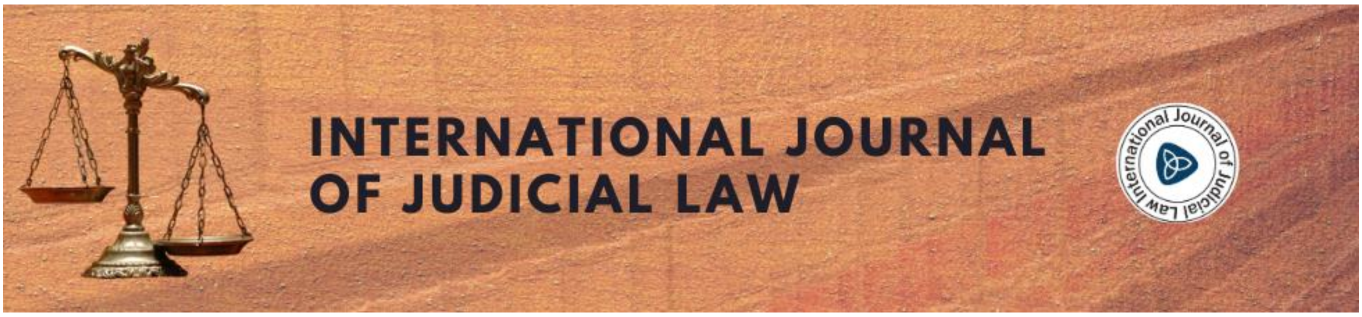

Responsibilities of Mining Companies in the Relaxation of Mining Exports According to Indonesian Positive Law

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Article Info

ISSN (online): 2583-6536
Volume: 05
Issue: 05
Received: 09-07-2026
Accepted: 08-08-2026
Published: 07-09-2026
Page No: 51-66

Abstract
This study aims to analyze the regulation of export relaxation of mining products in Indonesian positive law and examine the form of responsibility of mining companies in implementing this policy. This study uses a normative legal method with a statutory approach, which systematically examines primary and secondary legal materials. The results show that export relaxation is a dispensative and transitional administrative policy, which provides relaxation of the obligation to process and refine mining products. However, this policy creates normative ambiguity because it has the potential to conflict with imperative legal norms, thus impacting legal certainty and regulatory consistency. Mining companies' responsibilities under export relaxation remain fully attached, encompassing administrative, civil, and criminal responsibilities. Relaxation does not eliminate the company's legal obligations, but only provides limited leniency in their implementation. The implications of the relaxation policy indicate a potential weakening of the enforcement of legal obligations, particularly regarding downstreaming, environmental protection, and state revenue. Therefore, strengthening regulations, supervision, and law enforcement is needed to ensure that the relaxation policy remains within the corridor of the principles of the rule of law and in line with the goal of managing natural resources for the greatest prosperity of the people.

DOI: https://doi.org/10.54660/IJJL.2026.5.5.51-66

Keywords: Legal Responsibility, Mining Companies, Export Relaxation, Indonesian Positive Law

Introduction

Natural resource management, particularly the mining sector, is a strategic area in the Indonesian legal and economic system. Mineral and coal resources not only have high economic value, but are also directly related to the constitutional mandate as stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. [1] From the perspective of positive Indonesian law, state control over natural resources carries a constitutional obligation to formulate and implement mining policies based on the principles of justice, legal certainty, benefit, and environmental sustainability. Therefore, every policy related to the utilization and management of mining products, including export policies and their relaxation, must be placed within a legal framework that is consistent with the principles of the rule of law *(rechtsstaat)* and the objectives of natural resource management as mandated by the constitution. Policy inconsistencies or deviations in mining management have the potential not only to cause state losses and environmental damage, but also to weaken the legal legitimacy of the state in

[1] Republic of Indonesia. (1945). *1945 Constitution of the Republic of Indonesia,* Article 33 paragraph (3).

carrying out its control function over strategic natural resources [2].

In practice, the management of Indonesia's mining sector is inextricably linked to global market dynamics, particularly through the export of mining products as part of international commodity trade. Mineral and coal exports have long been positioned as a strategic instrument to increase state revenue, attract investment, and strengthen Indonesia's position in the global mineral supply chain, particularly for strategic commodities such as nickel, bauxite, and coal. [3] In this context, Indonesia plays a crucial role as a major supplier of mineral raw materials to global industry, particularly for energy needs and the transition to a green economy. However, export patterns, dominated for years by shipments of raw materials, have given rise to various structural problems. Dependence on raw mineral exports has led to low national added value, increased economic vulnerability to fluctuations in global commodity prices, and hampered the development of domestic processing and refining industries. These conditions not only limit the creation of high-value jobs but also weaken Indonesia's bargaining position in the global value chain, as the majority of economic benefits are enjoyed by processing countries and end consumers.

Continued dependence on raw material exports not only results in low economic added value but also has implications for limited technological mastery, weak national industrial competitiveness, and suboptimal utilization of natural resources as an instrument of sustainable development. This pattern positions Indonesia primarily as a supplier of raw materials in the global value chain, while processing countries enjoy greater economic benefits. This situation indicates an imbalance between actual control of natural resources and the country's ability to optimize their economic benefits for national welfare. [4] In response to this problem, the Indonesian government implemented a mining downstreaming policy, requiring mining business permit holders to process and refine mining products domestically before export. This downstreaming policy is intended to increase the added value of minerals and expand employment opportunities in the natural resource-based industrial sector. Furthermore, this policy also reflects the state's efforts to reassert its role as the primary controller of strategic natural resource utilization, in line with constitutional mandates and the principles of sustainable development. However, the implementation of the downstreaming policy has not been linear. Various obstacles, such as limited infrastructure, technological readiness, and global economic conditions, have prompted the government to adopt a policy of relaxing mining exports. This relaxation is intended as an exceptional or transitional policy, allowing mining companies to continue exporting under certain conditions. However, in a legal context, this relaxation raises serious issues regarding the legal status, limitations, and responsibilities of mining companies as legal entities in mining export activities. [5]

Mining companies, as business entities engaged in natural resource management, have special characteristics because their business activities are directly related to the public interest and the control of natural resources by the state. Under Indonesian positive law, mining companies not only have commercial responsibilities for their business activities but also have legal responsibilities to the state, society, and the environment. These responsibilities include obligations to protect and manage the environment, obligations to build processing and refining facilities *(smelters)* as part of the downstream policy, and obligations to pay non-tax state revenues and taxes as a contribution to state revenue. [6] The relaxation policy for mining exports is essentially a dispensative administrative policy, which provides temporary leeway for mining companies to continue exporting mining products even though certain obligations, such as the construction of processing and refining facilities, have not been fully fulfilled. This policy has the potential to create inconsistencies between imperative legal norms and temporary administrative policies. [7]

Furthermore, the policy of relaxing mining exports has the potential to create normative ambiguity within Indonesia's positive legal framework. On the one hand, mining laws explicitly mandate processing and refining as an instrument of state control over the utilization of strategic natural resources. This norm reflects the intention of lawmakers to position downstream processing as an imperative obligation, not merely a policy matter, but rather part of a binding legal regime. However, on the other hand, the implementing regulations governing export relaxation actually create room for exceptions to this obligation, potentially being interpreted as weakening or even shifting the meaning of statutory norms. This situation raises fundamental legal issues, not only related to the consistency and hierarchy of laws and regulations, but also touching on the principles of legal certainty and accountability in governance and mining business activities. The ambiguity between the imperative norms of the law and the flexibility of administrative policies has the potential to create uncertainty regarding the limits of state authority and the scope of legal responsibility of corporations, particularly Limited Liability Companies, in implementing mining export activities.

The novelty of this research lies in the absence of a legal study that comprehensively and integratively analyzes the legal responsibility of Limited Liability Companies in implementing the relaxation policy on mining exports by simultaneously placing corporate law, mining law, and state administrative law within a single analytical framework of Indonesian positive law. Previous studies generally still separate the study of export policy and the study of corporate responsibility, so that the resulting analysis tends to be partial and unable to answer legal issues in a complete, systematic, and sustainable manner. With this integrative approach, this research not only seeks to fill the gap in normative studies regarding the relaxation of mining exports, but also offers a new analytical construction regarding the limits, forms, and mechanisms of legal responsibility of Mining Companies within the framework of the rule of law and state control over strategic natural resources. Therefore, this research is expected to provide theoretical contributions to the

[2] Riant Nugroho, " *Public Policy: Formulation, Implementation, and Evaluation* " (Jakarta: Elex Media Komputindo, 2024), p. 26.

[3] Jimly Asshiddiqie, " *Constitutional Law and the Pillars of Constitutional Democracy in Indonesia"* (Jakarta: Sinar Grafika, 2023), pp. 42-45.

[4] Simon Butt and Tim Lindsey, " *Indonesian Law,* 4th edition" (Oxford: Oxford University Press, 2023), p. 96.

[5] Philipus M. Hadjon, " *Introduction to Indonesian Administrative Law,* revised edition" (Yogyakarta: Gadjah Mada University Press, 2022), pp. 34-36.

[6] Munir Fuady, " *Limited Liability Company Law: New Paradigm,* revised edition" (Bandung: Citra Aditya Bakti, 2022), p. 46.

[7] Philipus M. Hadjon, " *Introduction to Indonesian Administrative Law,* revised edition" (Yogyakarta: Gadjah Mada University Press, 2022), pp. 52-60.

development of mining law and corporate law, as well as practical contributions to policy formulation and law enforcement in the mining sector.

Research Methods

This research is a normative legal research *that* examines the responsibilities of mining companies in implementing the relaxation of mining exports according to Indonesian positive law. The research object is focused on laws and regulations, legal principles, doctrines, legal theories, court decisions, and other legal materials relevant to the research issue. This research uses three approaches, namely the statute approach, the conceptual approach, and the case approach. The statutory approach is used to analyze regulations regarding the relaxation of mining exports, the conceptual approach is used to examine legal concepts and principles related to the responsibilities of mining companies, while the case approach is used to analyze the application of legal norms through relevant decisions or cases. The analysis is carried out prescriptively to examine the consistency, harmonization, and coherence of legal norms in formulating legal arguments regarding the responsibilities of mining companies in implementing the relaxation of mining exports according to Indonesian positive law.

Analysis Method

The legal materials obtained through literature review were analyzed descriptively and qualitatively using legal reasoning *and* deductive thinking. The analysis was conducted through the identification, classification, and interpretation of primary, secondary, and tertiary legal materials related to the relaxation of mining exports and the responsibilities of mining companies under Indonesian positive law. Furthermore, the legal materials were analyzed systematically to assess the consistency, harmonization, and synchronization between laws and regulations, as well as to examine the application of relevant legal principles. The results of this analysis were used to construct logical, systematic, and comprehensive legal arguments in answering the research problems.

Results and Discussion

Relaxation Regulations for Mining Exports in Indonesian Positive Law

A. Concept and Legal Position of Mining Natural Resources

Mining natural resources are one of the natural resources owned by the Indonesian nation and have a very strategic role in supporting national development. These resources include metallic minerals, non-metallic minerals, rocks, and coal contained in the earth and have high economic value. Unlike renewable natural resources, mineral and coal resources are included in the category of non - *renewable natural resources*, so their use must be carried out wisely, efficiently, and oriented towards sustainability. These characteristics cause the management of mining resources not only to be seen as an economic activity alone, but also as part of the state's responsibility in maintaining a balance between the interests of economic development, environmental preservation, and community welfare.

From a legal perspective, mining natural resources have a very important position because they are objects of state control as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. This constitutional provision is the philosophical and legal basis for all natural resource management policies in Indonesia. Control by the state is not interpreted as state ownership in the private sense, but rather as public authority that gives the state the right to regulate (*regelen*), manage (*besturen*), administer (*beheren*), supervise (*toezichthouden*), and determine policies (*beleid*) in the utilization of natural resources so that the benefits can be felt by all Indonesian people.

The concept of state control has been affirmed through various Constitutional Court decisions, which state that the right to control is a constitutional instrument that authorizes the state to implement policies, regulate, manage, administer, and supervise natural resources to achieve social justice and public welfare. Therefore, the management of mining resources must not be solely oriented towards economic interests or corporate profits, but must provide optimal benefits for national development, improving public welfare, economic equality, and protecting the interests of future generations.

The legal status of mining natural resources within the Indonesian legal system was further elaborated through Law Number 4 of 2009 concerning Mineral and Coal Mining, which replaced Law Number 11 of 1967 concerning Basic Provisions on Mining. This change in law marked a paradigm shift in national mining law, from prioritizing the exploitation of natural resources to emphasizing the principles of sustainability, increasing added value, protecting the environment, and strengthening the state's role in managing mineral and coal resources. This regulatory reform also reflects an adjustment to evolving national development needs and global demands for sustainable natural resource management.

One of the main characteristics of Law Number 4 of 2009 is the affirmation of the principle of state control over mineral and coal resources, which is realized through the government's authority to regulate, manage, administer, foster, and supervise all mining business activities. The state no longer functions only as a permit or concession issuer to business actors, but also plays a role as a regulator responsible for ensuring that mining activities are carried out in accordance with the principles of good mining governance. Through this authority, the government has the responsibility to ensure that the utilization of natural resources continues to provide economic benefits, maintain environmental sustainability, protect the interests of the community, and improve the welfare of the people in a sustainable manner.

The regulations regarding mineral and coal mining in Law Number 4 of 2009 also introduced a new paradigm in the form of a policy of increasing added value through domestic processing and refining of mining products. This policy is expressly stipulated in Articles 102 and 103, which require every holder of a Mining Business Permit (IUP) or Special Mining Business Permit (IUPK) to increase the added value of minerals through processing and refining activities before being marketed or exported. This policy is known as the mining downstream policy, which aims to reduce dependence on raw material exports, increase the competitiveness of the national industry, expand employment opportunities, increase investment in the processing industry sector, strengthen the national industrial structure, and increase state revenue from the mining sector.

Economically, the downstreaming policy is crucial because it creates significantly greater added value than raw material exports. Domestic mineral processing and refining enable the development of downstream industries, thus providing a multiplier effect *on* national economic growth, increased public income, the development of small and medium enterprises, and the increased competitiveness of Indonesian products in the international market. Therefore, the downstreaming policy is not merely viewed as a mining sector policy but also as part of a national industrial development strategy based on optimizing the use of natural resources.

However, the implementation of the mandatory processing and refining of mining products is not without its challenges. Limited investment, high smelter construction costs, limited supporting infrastructure, energy supply, and technological readiness are factors that have prevented some companies from meeting their obligations to build processing and refining facilities in accordance with government-set targets. These conditions then prompted the government to implement a relaxation policy on mining exports as a transitional measure, allowing companies to continue exporting on the condition that they continue to fulfill their commitments to build smelters and meet various other legal requirements. Therefore, the relaxation of exports is essentially a policy instrument intended to maintain a balance between the sustainability of mining business activities and the acceleration of the implementation of the national downstream program.

In addition to regulating the increase in added value, Law Number 4 of 2009 also emphasizes the importance of implementing good mining practices. These principles include the company's obligation to implement environmental management and protection, reclamation of ex-mining land, post-mining activities, occupational safety and health, mineral resource conservation, efficient resource utilization, and fulfillment of financial obligations to the state. These regulations demonstrate that mining activities are no longer viewed solely as natural resource exploitation activities, but rather as activities that contain legal, social, environmental, and economic responsibilities that must be implemented in a balanced manner by every business actor.

The development of national mining law then continued with the enactment of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009. These changes were made to strengthen national mining governance through simplifying the licensing system, strengthening the authority of the central government, increasing legal certainty for business actors, strengthening downstreaming policies, and optimizing state revenue from the mining sector. Despite various changes in institutional aspects and licensing mechanisms, the basic principles regarding state control over natural resources, the obligation to increase added value through downstreaming, environmental protection, and the responsibility of mining companies remain as the main foundations of the Indonesian mining legal system.

Thus, the concept and legal status of mining natural resources in the Indonesian legal system indicate that mineral and coal resources are strategic natural resources under the control of the state and must be managed based on the principles of benefit, justice, sustainability, efficiency, transparency, accountability, and for the greatest possible prosperity of the people. All policies in the mining sector, including the policy of relaxing mining exports, must essentially remain guided by these principles so that the utilization of natural resources not only produces short-term economic benefits, but also supports sustainable national development, strengthens domestic industry, protects the environment, and realizes intergenerational justice in accordance with the mandate of the constitution.

B. Legal Framework for Mining Management in Indonesia

The legal framework for mining management in Indonesia is a system of norms that regulates all aspects of mining activities, from state control of natural resources, business licensing, implementation of mining activities, to supervision and law enforcement. This legal framework is based on constitutional principles derived from Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. These constitutional provisions serve as both the philosophical and legal basis for the state in formulating natural resource management policies, including the mineral and coal mining sector. From a state administrative law perspective, this state control is realized through the functions of regulating, administering, managing, and supervising all mining activities carried out by business actors.

Operationally, the legal framework for mining management in Indonesia is primarily regulated by Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining (Minerba Law). This law serves as the primary legal instrument governing all stages of mining activities, from licensing to post-mining. Under the Minerba Law, mining activities can only be conducted after obtaining a government permit, such as a Mining Business Permit (IUP), a Special Mining Business Permit (IUPK), or other forms of permits in accordance with statutory provisions.

In addition to the Minerba Law, the legal framework for mining management is also supported by various other closely related laws and regulations, including Law Number 32 of 2009 concerning Environmental Protection and Management which regulates the obligations of mining business actors in maintaining environmental sustainability, as well as Law Number 30 of 2014 concerning Government Administration which is the basis for licensing aspects and state administrative actions in the mining sector. Furthermore, in practice, mining management is also regulated through implementing regulations such as Government Regulations, Presidential Regulations, and Regulations of the Minister of Energy and Mineral Resources (ESDM) which technically regulate the procedures for granting permits, carrying out exploration and exploitation activities, reclamation and post-mining obligations, and supervision of mining business activities.

Thus, the legal framework for mining management in Indonesia can be understood as a hierarchical and integrated legal system that focuses not only on economic aspects but also encompasses environmental, social, and sustainability aspects. This demonstrates that mining management is inextricably linked to the principle of a state based on the rule of law *(rechtstaat)*, where all mining activities must be based on applicable law and supervised by the state to ensure the public interest and social justice.

C. Downstreaming Mandatory Policy and Relaxation of Mining Exports

The mandatory downstreaming policy and the relaxation of mining exports are part of the legal instruments used by the state to manage mineral and coal resources. These policies aim to increase the added value of natural resources through domestic processing and refining activities, strengthen national industry, increase state revenues, and ensure natural resource management that maximizes the prosperity of the people.

The constitutional basis for the downstreaming policy stems from Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This provision gives the state the authority to regulate the management of natural resources, including establishing policies that encourage increased added value from mining products through domestic processing and refining. In the mining sector, the downstreaming policy was first emphasized through Law Number 4 of 2009 concerning Mineral and Coal Mining. This law shifted the mining management paradigm from an orientation toward raw material exports to the development of domestic processing and refining industries. This policy is implemented through the provisions of Articles 102 and 103, which require holders of Mining Business Permits (IUP) and Special Mining Business Permits (IUPK) to increase the added value of minerals and coal through processing and refining activities.

The downstreaming policy was further strengthened through Law Number 3 of 2020, which reaffirmed the obligation to process and refine mining products domestically as part of the national industrial development strategy. Through this policy, mining companies are expected to function not only as raw material producers but also to contribute to creating longer industrial value chains, increasing employment, and strengthening national economic competitiveness. In its implementation, the downstreaming obligation faces various challenges, including limited smelter capacity, significant investment requirements, and the dynamics of the global mineral commodity market. These conditions prompted the government to implement a relaxation policy on mining exports as a transitional measure to maintain the sustainability of mining businesses and provide time for companies to fulfill their obligations to build processing and refining facilities.

The relaxation of mining exports is essentially a policy that provides limited exemptions from domestic processing and refining obligations. This policy is granted to mining companies that meet certain requirements, particularly those that demonstrate commitment and progress in building smelter facilities in accordance with statutory regulations. Therefore, the export relaxation is not intended to eliminate downstreaming obligations, but rather serves as a transitional tool in achieving national downstreaming goals.

Legally, the export relaxation policy is implemented through various government regulations and ministerial regulations that govern the procedures for granting export approvals, administrative requirements, smelter construction obligations, and government oversight mechanisms. From a state administrative law perspective, this policy can be understood as a form of government discretion *(freies ermessen)* to resolve concrete issues encountered in implementing the downstreaming policy, as long as it remains within the legal framework and does not conflict with higher-level laws and regulations.

Thus, the relationship between downstreaming obligations and export relaxation is inextricably linked within the Indonesian mining legal system. The downstreaming obligation is the primary policy guiding the management of national mineral resources, while the export relaxation is a temporary and limited legal instrument to support the achievement of these downstreaming objectives. Therefore, the existence of export relaxation must be understood as part of the downstreaming policy implementation strategy, not as a waiver of the obligation to process and refine mining products domestically.

D. Licensing Mechanism for Relaxed Mining Exports

The relaxed mining export licensing mechanism is part of the mining sector licensing system granted by the government as an exception to the mandatory downstreaming of raw minerals. This policy is essentially an administrative instrument used by the state to balance the interests of domestic downstreaming of natural resources with national economic needs, including the stability of the mining industry and state revenues.

Legally, the export relaxation licensing mechanism cannot be separated from the legal framework for mining management as stipulated in Law Number 3 of 2020 concerning Mineral and Coal Mining (Minerba Law). This law emphasizes the obligation of mining businesses to process and refine minerals domestically before exporting. However, under certain circumstances, the government is authorized to establish exceptions or relaxation policies through implementing regulations. In practice, the export relaxation mechanism is implemented through administrative licensing stages under the authority of the government, specifically the Ministry of Energy and Mineral Resources (ESDM). Export relaxation is generally granted to companies holding Mining Business Permits (IUP) or Special Mining Business Permits (IUPK) that do not yet have fully operational processing and refining facilities (smelters) but have demonstrated a commitment to smelter construction in accordance with the government-approved work plan and budget (RKAB).

Normatively, the technical legal basis for this export relaxation is further regulated through Government Regulations and Regulations of the Minister of Energy and Mineral Resources, which govern the procedures for granting mineral concentrate export permits. Under these provisions, companies are required to submit export permit applications to the Minister of Energy and Mineral Resources, attaching a number of administrative and technical requirements and a commitment to build domestic processing and refining facilities. The government then evaluates the application based on several key aspects, including the progress of smelter construction, the availability of mineral reserves, production capacity, and contribution to state revenue. If the requirements are met, the government can grant export approval in the form of a recommendation or a limited-term export permit.

Furthermore, the export relaxation mechanism is accompanied by strict government oversight obligations. This oversight includes monitoring export volumes, tax and non-tax state revenue (PNBP) payments, and company compliance with commitments to build processing and refining facilities. If a company fails to fulfill its obligations, the government has the authority to revoke the granted export relaxation permit. From the perspective of state administrative law, the export relaxation licensing mechanism can be understood as a form of discretionary government action *(bestuursdaad) that* remains limited by the principles of legality, public interest, and *good governance.* Therefore, every decision to grant export relaxation must be based on objective legal considerations, be transparent, and be accountable administratively and legally. Thus, the mining export relaxation licensing mechanism reflects the state's role in selectively and measurably controlling the use of natural resources. On the one hand, the state maintains the downstreaming policy as the primary direction of mining management, while also providing flexibility through export relaxation to maintain industrial sustainability and national economic stability.

E. Analysis of Normative Conflicts in the Regulation of Relaxation of Mining Exports Reviewed from Hans Kelsen's Normative Hierarchy Theory

The main issues raised in the regulation of the relaxation of mining exports are not solely related to public policy aspects in the mining sector, but also concern fundamental issues regarding the consistency of the national legal system. From a normative legal research perspective, these issues must be analyzed through a theoretical approach capable of explaining the validity, applicability, and relationships between legal norms within a regulatory system. One of the most relevant theories to explain these issues is the Stufenbau Theory *proposed* by Hans Kelsen.

Hans Kelsen argued that law is a hierarchical system of norms, where each norm derives its legitimacy and binding force from norms at a higher level. According to Kelsen, the validity of a legal norm does not stand alone, but is determined by its validity relationship with higher norms, ultimately leading to the Grundnorm (*basic norm*) as the basic norm that serves as the source of legitimacy for the entire legal system. Thus, the existence of a legal norm can only be maintained as long as the norm is formed based on legitimate authority and does not conflict with norms that have a higher position in the legal hierarchy structure. The logical consequence of this theory is that every implementing regulation must reflect and implement the normative intent established by regulations at a higher level. Lower-level regulations are not authorized to change, reduce, expand, or eliminate the substance of norms established by lawmakers. The primary function of implementing regulations is solely to regulate the technical operational aspects (*regeling*) to ensure the effective implementation of statutory norms without altering the substance of the rights and obligations established by lawmakers.

Hans Kelsen's thinking then gave birth to one of the fundamental principles in resolving norm conflicts, namely the principle of *lex superior derogat legi inferiori*, which contains the meaning that legal norms that have a higher status must override legal norms that are at a lower level if there is a conflict between the two. This principle is a legal instrument to maintain the consistency of the legal system, guarantee legal certainty, and prevent the emergence of normative dualism that can cause uncertainty in the application of the law. In the Indonesian legal system, the hierarchy of norms theory is recognized through the regulation of the hierarchy of laws and regulations as stipulated in Law Number 12 of 2011 concerning the Formation of Legislation, as last amended by Law Number 13 of 2022. Based on these provisions, laws occupy a higher position than Government Regulations and Ministerial Regulations. Therefore, all implementing regulations must comply with, be in line with, and not conflict with the norms stipulated in the Law as a form of implementing the principle of the supremacy *of law* in the Indonesian constitutional state.

When this theory is linked to the object of this research, an interesting normative issue arises, namely the indication of a normative conflict between the provisions of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining and the relaxation policy for mining exports regulated by the Regulation of the Minister of Energy and Mineral Resources. This issue cannot be viewed as merely a difference in administrative policy, but must be analyzed as a matter of norm alignment within the national legal system.

The Mineral and Coal Mining Law explicitly mandates increased mineral value through domestic processing and refining activities. This provision is explicitly reflected in Article 102, which mandates increased value-added for mineral and coal resources, and Article 103, which requires holders of Mining Permits (IUP), Special Mining Permits (IUPK), and other mining parties to process and refine their mining products domestically. These norms represent a concrete implementation of the mining downstreaming policy, a national legal strategy to increase mineral value-added, strengthen domestic industry, reduce dependence on raw material exports, create jobs, and increase state revenue.

Philosophically, the downstreaming obligation is a direct implementation of the mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which emphasizes that the land, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. Therefore, the processing and refining obligation cannot be viewed solely as an administrative obligation of mining companies, but rather as a legal instrument of the state in realizing the constitutional goal of managing natural resources in a sustainable and equitable manner. However, in practice, the government, through a regulation issued by the Minister of Energy and Mineral Resources, has implemented an export relaxation policy for certain mining companies that have not yet fully completed the construction of their processing and refining facilities (*smelters*). This policy allows companies to continue exporting minerals under certain conditions, provided they meet the administrative requirements set by the government.

When analyzed using Hans Kelsen's Hierarchy of Norms Theory, this policy raises questions about the validity of the norms. On the one hand, the Mineral and Coal Mining Law imperatively requires processing and refining as a primary requirement prior to mineral exports. On the other hand, the Ministerial Regulation provides an exception to this obligation through an export relaxation policy. This situation indicates a potential norm conflict *between* norms at the statutory level and those at the implementing regulation level. This conflict of norms becomes even more apparent when one considers that the downstreaming obligation stipulated by the Minerba Law is an imperative norm (*mandatory norm*), while the Ministerial Regulation provides dispensation for the implementation of this obligation. If this dispensation changes the substance of the obligation stipulated by the law or exceeds the limits of the delegated authority granted by the legislator, then theoretically there has been a deviation from the norm hierarchy system as formulated by Hans Kelsen.

From the perspective of the principle of lex superior derogat legi inferiori, the norms contained in the Ministerial Regulation cannot be used as a basis to override the norms mandated by the Mineral and Coal Mining Law. Implementing regulations only function to regulate implementation mechanisms, administrative procedures, permit granting procedures, and other technical requirements, but do not have the authority to change the substance of legal obligations established by the legislator. Therefore, export relaxation cannot be interpreted as eliminating downstreaming obligations, but rather merely a temporary administrative instrument as long as it remains within the corridor of delegation of authority granted by the law.

Furthermore, the existence of two norms that regulate the same legal object but have different legal consequences has the potential to create legal uncertainty. On the one hand, mining companies obtain administrative legitimacy to export based on the Regulation of the Minister of Energy and Mineral Resources. However, on the other hand, the Mineral and Coal Law still places processing and refining obligations as a legal obligation that must be fulfilled by every mining business permit holder. This situation has the potential to give rise to different interpretations regarding the limits of government authority in granting export relaxations as well as regarding the scope of legal responsibility of mining companies if downstreaming obligations are not fully fulfilled. From a normative legal research perspective, this conflict of norms not only impacts legal certainty but also touches on the legitimacy of government policy, the validity of implementing regulations, and the protection of the rule of law. The state, as a policy maker, remains bound by the principle of legality, so every administrative policy must have a clear legal basis and must not deviate from the normative intent established by law. Therefore, the granting of export relaxation must be positioned as a form of exercising administrative authority within the limits of the delegation granted by the legislator, and not as an instrument to change imperative legal norms.

Based on the overall description, it can be emphasized that Hans Kelsen's Hierarchy of Norms Theory provides a strong analytical basis for assessing the consistency of the regulation of export relaxation of mining products in the Indonesian legal system. This theory shows that every policy outlined in the Ministerial Regulation must remain subject to the norms contained in the Minerba Law as norms that have a higher status. Thus, the resolution of norm conflicts in this study must prioritize the application of the principle of lex superior derogat legi inferiori, so that the norms in the Minerba Law remain the main reference in determining the legality of export relaxation policies and in determining the legal responsibilities of mining companies. On this basis, export relaxation policies can only be legally justified as long as they do not change the substance of the downstreaming obligations that have been stipulated by law, remain within the scope of authority delegated by the legislators, and do not reduce the constitutional objective of state control over natural resources for the greatest prosperity of the people.

Responsibilities of Mining Companies in Relaxing Mining Exports

A. The Concept of Legal Responsibility of Mining Companies

The legal responsibility of mining companies is one of the fundamental aspects of the national mining legal system because it is directly related to the management of natural resources that have strategic value for national development. Mining activities basically utilize natural resources controlled by the state as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the earth, water, and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. Therefore, every company that obtains the right to carry out mining activities not only obtains economic benefits, but is also burdened with various legal responsibilities to ensure that the business activities carried out remain in line with the interests of the community, environmental protection, and sustainable development goals. [8]

Conceptually, legal responsibility *can* be understood as an obligation imposed on an individual or legal entity to be accountable for every action taken in accordance with applicable legal provisions. According to the theory of legal responsibility, every legal entity that commits an act that results in legal consequences is obliged to bear the consequences of that act. These consequences can include obligations to repair losses, fulfill certain obligations, pay compensation, or accept sanctions stipulated by law. In the context of mining companies, legal responsibility is inherent in business entities as legal entities that have the capacity to take legal action, have rights and obligations, and can be held accountable for every business activity they carry out. [9]

From a legal perspective, corporate legal liability can be divided into several forms. First, fault liability, which arises from an error or negligence committed by the company. Second, strict liability, which remains a liability even in the absence of fault, particularly in activities that pose a high risk to the environment. Third, risk liability, which arises from the potential danger posed by a business activity. In the mining sector, which poses a high level of risk to the environment and society, these three forms of liability are particularly relevant.

Within Indonesia's mining legal framework, mining companies' responsibilities are regulated by various legal instruments, particularly Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. This law stipulates that every holder of a Mining Business Permit (IUP), Special Mining Business Permit (IUPK), or other permits must carry out mining activities in accordance with good mining practices. The principles of *good mining practices* encompass aspects of

[8]Jimly Asshiddiqie, *Constitutional Law and the Pillars of Democracy,* (Jakarta: Sinar Grafika, 2012), pp. 298–300.
[9]Peter Mahmud Marzuki, *Legal Research,* Revised Edition, (Jakarta: Kencana, 2021), pp. 141–143.

occupational safety, mineral and coal resource conservation, environmental management, community development, reclamation, and post-mining.

The obligation to implement *good mining practices* demonstrates that mining companies' legal responsibilities extend beyond production and economic profit to environmental protection and the well-being of communities surrounding the mining area. Therefore, a mining company's success is measured not only by the amount of production or profits earned, but also by the company's level of compliance with various legal obligations established by the state. [10] In addition to being derived from mining law, mining companies' legal responsibilities are also regulated by the environmental law regime. Law Number 32 of 2009 concerning Environmental Protection and Management stipulates that every business and/or activity that has the potential to cause significant impacts on the environment must have an Environmental Impact Analysis (AMDAL) document. This document serves as a preventative measure to identify, predict, and control potential negative impacts resulting from business activities.

Through these provisions, mining companies have a legal responsibility to prevent pollution and environmental damage. If environmental damage occurs due to mining activities, the company can be held accountable through administrative, civil, and criminal proceedings. In some cases, the application of the strict liability principle allows a company to remain liable without having to prove fault. This demonstrates that environmental protection is a primary focus of the legal liability system for mining companies in Indonesia. From a corporate law perspective, mining companies, as legal entities, have corporate liability. The theory *of corporate liability* explains that a corporation can be held accountable for the actions of its management, directors, commissioners, or other parties acting on its behalf. Therefore, a company cannot escape responsibility simply because a violation is committed by a specific individual within the company organization. [11] *Corporate liability* has evolved as a consequence of the growing role of corporations in modern economic activity. In the mining sector, corporations often manage natural resources on a large scale, which has a wide impact on society and the environment. Therefore, the law provides the state with the opportunity to hold corporations directly accountable for violations of the law, including violations related to environmental obligations, tax obligations, occupational safety, and corporate social responsibility.

The legal responsibility of mining companies is also closely related to the concept of *Corporate Social Responsibility* (CSR). Although CSR is often viewed as a social and ethical obligation, in the Indonesian legal context, it has gained legal legitimacy through various laws and regulations. In mining activities, CSR implementation is realized through community empowerment programs, development of areas around the mine, improvement of education and health, and development of social infrastructure that benefits the local community. [12] The existence of CSR demonstrates that mining companies are not only responsible to shareholders, but also to stakeholders affected by mining activities. This stakeholder approach further reinforces the concept that the legal responsibility of mining companies is broad and multidimensional. In the context of the relaxation of mining exports, the concept *of* corporate legal responsibility becomes increasingly important. The export relaxation policy is essentially a form of dispensation or leniency granted by the government to companies to continue exporting under certain conditions. However, this relaxation is not granted in an absolute manner, but is accompanied by various requirements that must be met by companies, particularly regarding commitments to build processing and refining facilities *(smelters)* domestically.

Export relaxation is a policy instrument aimed at maintaining investment stability and the sustainability of mining businesses, while still supporting the national downstreaming agenda. Therefore, companies granted export relaxation are legally responsible for fulfilling all commitments agreed with the government. Failure to fulfill these commitments can be considered a violation of the legal obligations inherent in the permits granted. In practice, companies' responsibilities in implementing export relaxation encompass several aspects, including compliance with smelter construction targets, submitting periodic progress reports, paying financial obligations to the state, meeting environmental standards, and complying with government-specified export regulations. All of these obligations are an integral part of the state's oversight mechanism for the utilization of national mineral resources.

If a company fails to fulfill its obligations, the government can impose various administrative sanctions, including written warnings, temporary suspension of business activities, permit suspension, and even revocation of its mining business permit. In addition to administrative sanctions, companies can also face civil lawsuits if they cause losses to other parties. In certain circumstances, violations can even lead to criminal liability, particularly if they result in state losses, corruption, or serious environmental damage.

Thus, the concept of legal responsibility for mining companies in the context of the relaxation of mining exports demonstrates that the right to exploit natural resources is always accompanied by strict legal obligations. This responsibility reflects a balance between economic interests, environmental protection, and public welfare. The state, through legal instruments, plays a role not only as a business license issuer but also as a regulator and supervisor, ensuring that mineral resource management is carried out responsibly, sustainably, and provides the greatest possible benefit for the people's prosperity.

B. Forms of Responsibility of Mining Companies

Mining companies as holders of mining business permits not only have the right to conduct exploration and exploitation of mineral and coal resources, but are also burdened with various legal obligations that must be fulfilled during the course of their business activities. These obligations are a manifestation of the principle of state control over natural resources as stipulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and various provisions in Law Number 3 of 2020 concerning Mineral and Coal Mining. In the context of Indonesian mining law, the

[10] Munir Fuady, *Modern Doctrines in Corporate Law & Their Existence in Indonesian Law*, (Bandung: Citra Aditya Bakti, 2020), pp. 87–90.
[11] Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining.
[12] Law Number 32 of 2009 concerning Environmental Protection and Management.

forms of responsibility of mining companies can be described in several aspects as follows:

1. Responsibility for Smelter Development and Downstream Processing

One of the most important legal responsibilities for mining companies in Indonesia is the obligation to increase the added value of minerals and coal through domestic processing and refining activities. This obligation is an implementation of the mining downstreaming policy stipulated in Articles 102 and 103 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. Through this provision, the government requires holders of Mining Business Permits (IUP) and Special Mining Business Permits (IUPK) to increase the added value of mineral resources through processing and refining processes before marketing or exporting them. [13]

The downstreaming policy is essentially a national strategy to reduce dependence on raw *material exports* while simultaneously increasing the economic value of Indonesia's natural resources. For years, the practice of exporting raw minerals was considered to provide relatively limited economic benefits, as most of the added value was enjoyed by importing countries, which underwent further processing. Therefore, the government is encouraging the development of domestic processing and refining industries to maximize the economic benefits of the mining sector for the country and its people.

From a national economic development perspective, smelters serve not only as processing facilities for mining products but also as strategic instruments for creating a multiplier effect *on* the economy. Smelter construction can stimulate downstream industrial growth, create new jobs, increase investment, strengthen the national industrial supply chain, and increase state revenue through taxes, royalties, and foreign exchange from exports of high-value-added products. Therefore, the obligation to build smelters is not merely an administrative obligation, but rather part of the effort to realize economic sovereignty and natural resource management oriented towards the prosperity of the people.

In the context of mining export relaxation, the obligation to build a smelter plays a very strategic role as it is a primary requirement for companies seeking export relaxation. The government provides export relaxation as a transitional policy to ensure the investment and operational sustainability of mining companies constructing processing and refining facilities. However, this relaxation is not an absolute right that can be enjoyed unconditionally; rather, it is a facility granted based on the company's commitment to *smelter construction* according to the established schedule and targets.

Consequently, companies receiving export relaxation are required to demonstrate tangible and measurable progress in smelter construction. This progress is typically demonstrated through regular reports on construction progress, investment realization, equipment procurement, supporting infrastructure development, and the operational readiness of processing and refining facilities. The government, through relevant ministries and agencies, has the authority to evaluate, verify, and oversee the implementation of these commitments to ensure that export relaxation facilities are not misused by companies.

The responsibility for smelter development also reflects the application of the principles of *good mining governance.* This principle emphasizes that mineral resource management must provide optimal economic benefits for the state while ensuring the sustainability of national development. Therefore, mining companies are not only required to pursue commercial profits but also obliged to support the government's strategic policies to increase the competitiveness of the national industry through downstream processing.

In addition to its economic dimensions, smelter construction also has strong legal implications. These obligations are part of the licensing requirements that must be met by IUP and IUPK holders. Therefore, a company's failure to implement smelter construction according to agreed commitments can be categorized as a violation of the legal obligations inherent in its mining business permit. Such violations can result in administrative consequences in the form of written warnings, temporary suspension of business activities, permit suspension, or even revocation of the mining business permit. Furthermore, if a company's failure to comply with its smelter construction obligations results in state losses or adverse impacts on the public interest, it is possible that other forms of legal liability will arise, both civil and criminal, in accordance with applicable laws and regulations. Therefore, smelter construction cannot be viewed solely as a company business project, but rather as a legal obligation that must be implemented consistently and responsibly.

Thus, the responsibility for smelter construction and downstreaming is a crucial legal responsibility in Indonesia's mining sector. This obligation demonstrates that the utilization of mineral resources is not solely oriented toward exploitation and export, but also directed toward creating added value, strengthening national industry, improving community welfare, and realizing sustainable natural resource management in accordance with the constitutional mandate and national development goals.

2. Environmental Responsibility

Mining is a business sector that carries a high risk to the environment because it involves large-scale exploration, exploitation, processing, and utilization of natural resources. These activities have the potential to cause various environmental impacts, such as changes in the landscape, ecosystem damage, water pollution, air pollution, soil degradation, loss of biodiversity, and disruption to the social life of communities surrounding mining areas. Therefore, mining companies have a legal responsibility to implement sustainable environmental management and protection to minimize the negative impacts of their business activities. [14]

The environmental responsibility of mining companies is a consequence of the principle of sustainable development, a development concept that seeks to meet the needs of the current generation without compromising the ability of future generations to meet their own needs. In the mining context, this principle requires that the utilization of mineral resources

[13] Law Number 32 of 2009 concerning Environmental Protection and Management, specifically Article 87 paragraph (1) concerning strict liability and Article 1365 of the Civil Code concerning unlawful acts.

[14] Law Number 3 of 2020 concerning Mineral and Coal Mining, specifically provisions regarding business licensing and administrative sanctions in mining business activities; Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities.

not only be oriented towards short-term economic profit, but also consider the sustainability of environmental functions and the long-term welfare of society. Normatively, the environmental responsibility of mining companies is regulated in various laws and regulations, particularly Law Number 3 of 2020 concerning Mineral and Coal Mining and Law Number 32 of 2009 concerning Environmental Protection and Management. Both regulations emphasize that every mining business actor is obliged to undertake efforts to prevent, control, mitigate, and restore the environmental impacts caused by mining activities.

One of the most important forms of environmental responsibility is the obligation to prepare and implement environmental documents, such as an Environmental Impact Analysis (AMDAL) or other environmental documents in accordance with statutory provisions. Through an AMDAL, companies are required to identify various potential impacts that may arise from the planning stage of business activities so that mitigation and environmental management measures can be implemented systematically and measurably. Thus, an AMDAL serves as a preventive instrument aimed at preventing environmental damage before mining activities begin.

In addition to the obligation to prepare environmental documents, mining companies are also responsible for managing waste generated by mining activities. Improperly managed mining waste can pollute land, water, and air, ultimately threatening public health and the sustainability of ecosystems. Therefore, companies are required to implement waste management standards in accordance with applicable technical and environmental regulations, including the management of hazardous and toxic waste (B3) generated from mining production processes.

Environmental responsibility also includes the obligation to reclaim ex-mining land. Reclamation is an activity carried out throughout the mining process to organize, restore, and improve the quality of the environment so that it can function again according to its intended purpose. Reclamation not only aims to repair the physical condition of land damaged by mining activities but also aims to restore the ecological, social, and economic functions of the affected area. Through reclamation, ex-mining land can be reused for various productive purposes, such as forestry, agriculture, tourism, conservation areas, and other uses in accordance with regional spatial planning.

In addition to reclamation, mining companies are also obligated to carry out post-mining activities. Post-mining is a series of activities carried out after all mining operations have ended to restore the environmental and socio-economic conditions of communities surrounding the mining area. Post-mining activities include mine closure, land rehabilitation, environmental quality monitoring, security of ex-mined areas, and community empowerment programs aimed at helping communities adapt after mining activities have ended. Post-mining obligations demonstrate that a company's responsibility does not end when production activities end, but continues until environmental and social conditions have been adequately restored.

To ensure the implementation of reclamation and post-mining obligations, laws and regulations require companies to provide reclamation and post-mining guarantees. These guarantees serve as legal and financial instruments that ensure the availability of funds for environmental restoration if the company fails to fulfill its obligations. With this guarantee mechanism, the state has certainty that environmental restoration costs will not be entirely borne by the community or government in the event of company negligence. Furthermore, the environmental responsibility of mining companies is also related to the polluter pays principle. This principle stipulates that any party causing environmental pollution or damage must bear the costs of restoration and the resulting losses. In practice, if mining activities cause environmental pollution or damage to ecosystems, the company can be held accountable administratively, civilly, or criminally, depending on the severity of the violation. In some cases, Indonesian environmental law even applies the principle of strict liability, which allows a company to remain liable without first having to prove fault.

The implementation of environmental responsibility in the mining sector is crucial because it directly relates to the protection of the community's right to a healthy and good environment. A well-maintained environment not only provides ecological benefits but also supports economic sustainability, public health, food security, and the quality of life of future generations. Therefore, company compliance with environmental obligations is a crucial indicator in realizing good mining governance. Therefore, environmental responsibility is an integral part of a mining company's legal responsibilities, inseparable from the implementation of mining business activities themselves. This responsibility includes obligations to prevent pollution, manage waste, reclamation, post-mining, environmental restoration, and comply with various applicable environmental laws. Through consistent implementation of environmental responsibility, mining activities are expected to provide optimal economic benefits without compromising environmental sustainability and the interests of future generations.

3. Corporate Social Responsibility

In addition to economic and environmental responsibilities, mining companies also have a social responsibility to the communities surrounding their operational areas. This social responsibility arises because mining activities not only impact the physical environment but also influence the social, economic, cultural, and livelihood conditions of local communities. The presence of mining companies often brings significant changes to the social structure of communities, livelihood patterns, land use, and the dynamics of regional development. Therefore, companies have an obligation to ensure that their business activities provide tangible benefits to the community and do not give rise to social inequality or ongoing conflict. [15]

Corporate social responsibility is essentially a form of a company's commitment to participate in sustainable development by improving the quality of life of the community and the environment around its operational areas. In the modern business world, a company's success is no longer measured solely by the level of profit earned, but also by its contribution to community welfare and social

[15]Law Number 3 of 2020 concerning Mineral and Coal Mining, specifically provisions regarding the prohibition of mining activities without a permit and violations of mining business licensing provisions; Law Number 32 of 2009 concerning Environmental Protection and Management, specifically environmental criminal provisions related to environmental pollution and/or damage; and Law Number 1 of 2023 concerning the Criminal Code (KUHP).

development. This concept is known as the *triple bottom line approach*, which emphasizes the balance between aspects of economic benefit (*profit*), concern for society (*people*), and environmental protection (*planet*). In the context of Indonesian law, the implementation of corporate social responsibility has a strong legal basis through various laws and regulations. One of these is the provision regarding Social and Environmental Responsibility (TJSL), which stipulates that companies whose business activities are related to the utilization of natural resources are obliged to implement social responsibility programs as part of the company's activities. Thus, CSR in the mining sector is not only seen as a voluntary activity (*voluntary responsibility*), but has developed into an obligation that has legal and business ethics dimensions.

The implementation of Corporate Social Responsibility (CSR) in the mining sector aims to improve community welfare, support regional development, reduce the potential for social conflict, strengthen community acceptance of mining activities (*social license to operate*), and create harmonious and sustainable relationships between the company and the surrounding community. The success of a mining company is determined not only by compliance with regulations and achieving production targets, but also by the company's ability to build good relationships with communities affected by mining activities. One of the most common forms of CSR implementation is a community economic empowerment program. This program aims to increase the economic capacity of local communities so that they are able to directly benefit from the presence of the mining company. Types of activities that can be carried out include entrepreneurship training, development of micro, small, and medium enterprises (MSMEs), capital assistance, strengthening community cooperatives, development of the agricultural, fisheries, and livestock sectors, and various other productive economic programs. Through these programs, communities are not only passive beneficiaries but are also able to build sustainable economic independence.

From a sustainable development perspective, CSR functions not only as a social assistance instrument but also as a community development strategy *oriented* towards increasing capacity, independence, and long-term well-being. Effective CSR programs must be designed based on the real needs of the community, implemented sustainably, and involve various stakeholders, including local governments, educational institutions, community organizations, and local communities. If companies ignore their social responsibilities, various problems can arise, such as social conflict, community rejection of mining activities, declining public trust, and disruption to the company's operational stability.

Conversely, the proper implementation of social responsibility can create mutually beneficial relationships between companies and communities, increase investment stability, strengthen the company's image, and support the success of sustainable regional development. Therefore, corporate social responsibility is an integral part of a mining company's legal and ethical responsibilities. Through the implementation of planned, sustainable, and community-empowerment-oriented CSR programs, companies not only fulfill their social obligations but also contribute to realizing inclusive, equitable, and sustainable development for communities surrounding their mining areas.

4. Financial Responsibility to the State

In addition to having responsibilities in the environmental, social, and downstream development sectors, mining companies also have financial responsibilities to the state as a consequence of the utilization of natural resources controlled by the state. This financial responsibility is one form of implementation of the principle of state control over natural resources as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Through this principle, the state has the authority to regulate, manage, and ensure that the utilization of mineral and coal resources provides the greatest possible benefits for the prosperity of the people.

Within the framework of national mining law, companies granted mining business rights are required to fulfill various financial obligations stipulated by law. These obligations constitute compensation for the exploitation of limited and non - *renewable natural resources.* Therefore, every mineral and coal resource exploitation activity must make a significant contribution to state revenue and national development. The financial responsibilities of mining companies encompass various payment obligations to the state, including royalties, taxes, non-tax state revenues (PNBP), fixed fees, production fees, and other financial obligations stipulated in laws and regulations. All of these obligations constitute fiscal instruments designed to ensure that the state receives a fair share of the benefits of its natural resources.

One of the most important financial obligations is royalty payments. Royalties are payments companies must make to the state based on the volume or value of mineral and coal production. Royalties reflect the state's rights to the natural resources exploited by the company. The greater the production volume and value of the commodity, the greater the royalty contribution the state receives. Therefore, royalties are a crucial source of state revenue in the mining sector. In addition to royalties, mining companies are also required to fulfill their tax obligations in accordance with national tax laws. These obligations include payment of Income Tax (PPh), Value Added Tax (PPN), regional taxes, and various other taxes related to mining business activities.

Taxes play a strategic role as the primary source of funding for national development, making corporate compliance with tax obligations a crucial indicator of good corporate governance. Mining companies are also required to pay Non-Tax State Revenue (PNBP) from the utilization of mineral and coal resources. PNBP is one of the instruments used by the state to obtain economic benefits from natural resource management outside of taxation mechanisms. This revenue plays a significant role in supporting the financing of various development programs, both at the national and regional levels. In the development of national mining policy, corporate financial responsibility is increasingly linked to the downstream mining industry agenda. The government emphasizes not only increasing state revenue from raw material exports but also encouraging the creation of added value through domestic processing and refining. Therefore, various fiscal instruments are used to direct corporate behavior to support the national downstreaming policy. In the context of relaxing mining exports, companies may be burdened with the obligation to pay export duties or certain levies set by the government as an instrument to control exports and accelerate the development of processing and refining facilities (smelters). This policy aims to provide economic incentives and disincentives to encourage companies to fulfill their downstreaming obligations in accordance with government-set targets. Thus, export relaxation is not only a trade policy, but also part of the national fiscal and industrialization strategy.

The financial obligations associated with export relaxation essentially reflect the principle that any government-provided facilities must be balanced with adequate contributions from companies. Through this mechanism, the government strives to maintain a balance between investment interests, the sustainability of the mining industry, and the optimization of state revenues. This approach also ensures that the utilization of natural resources provides broader economic benefits to the community. Fulfilling financial responsibilities is also crucial for local governments, particularly those in mining-producing regions. A portion of revenues from the mining sector are reallocated to the regions through various financial transfer mechanisms and profit-sharing funds. These funds can be used to finance infrastructure development, education, health, community empowerment, and various other development programs aimed at improving the welfare of communities in natural resource-producing regions.

Conversely, a company's failure to meet its financial obligations can result in various legal consequences. Companies that default on royalties, taxes, non-tax state revenues (PNBP), or other financial obligations may be subject to administrative sanctions in the form of fines, written warnings, restrictions on business activities, permit suspensions, and even revocation of mining business permits. Under certain circumstances, violations that result in state losses can also result in civil and criminal liability in accordance with applicable laws and regulations. Therefore, financial responsibility to the state is a crucial form of legal responsibility in mining business activities. This obligation serves not only as a source of state revenue but also as an instrument for realizing justice in the utilization of natural resources, supporting national development, strengthening downstream policies, and ensuring that Indonesia's natural resources truly provide the greatest possible benefit for the prosperity of the people, as mandated by the constitution.

5. Legal Consequences of Mining Company Violations of Responsibilities

The implementation of mining business activities not only grants companies the right to exploit mineral and coal resources, but also imposes various legal obligations that must be met consistently and responsibly. Therefore, any violation of the legal obligations stipulated in laws and regulations can result in various legal consequences as a form of law enforcement and protection of the interests of the state, society, and the environment. These legal consequences are instruments used by the state to ensure that mining activities are carried out in accordance with the principles of legality, sustainability, and good mining *governance*.

Administrative liability is the most frequently applied form of accountability in mining activity monitoring practices. This liability arises when a company fails to fulfill the obligations stipulated in its mining business permit or the provisions of applicable laws and regulations. Administrative sanctions that can be imposed include written warnings, administrative warnings, administrative fines, temporary suspension of some or all business activities, suspension of mining business permits, and even revocation of mining business permits. In the context of relaxing mining exports, the government can also revoke export relaxation facilities if a company fails to fulfill its commitment to build a processing and refining facility (smelter) or fails to fulfill other obligations required for granting such facilities. The application of administrative sanctions has both preventive and corrective functions, ensuring that companies immediately make improvements and return to compliance with applicable laws.

In addition to administrative liability, mining companies can also be held civilly liable if their violations result in losses for other parties. Civil liability generally relates to the obligation to provide compensation for losses arising from the company's actions or negligence. In the mining sector, these losses can include damage to community land, environmental pollution, loss of livelihoods, health problems, and other economic losses caused by mining activities. In environmental cases, companies can not only be required to pay compensation but can also be ordered to carry out environmental restoration to restore the environment damaged by mining activities. This civil liability reflects the principle that any party causing losses must be responsible for the consequences.

In addition to administrative and civil liability, mining companies may also be subject to criminal liability if their actions meet the elements of a criminal offense as stipulated in laws and regulations. Criminal liability can arise from various forms of violations, such as mining activities without permits, submitting false data or reports, violating environmental regulations, managing waste that does not meet standards, avoiding financial obligations to the state, or other actions expressly categorized as criminal offenses. In modern legal developments, corporations are recognized as legal subjects that can be held criminally liable. Therefore, in addition to companies as legal entities, company managers found to be involved in criminal acts can also be held accountable in accordance with applicable laws and regulations. Criminal sanctions that can be imposed include fines, additional penalties, revocation of business licenses, and other forms of sanctions specified in laws and regulations.

In the context of the mining export relaxation policy, violations of government-imposed obligations can also have significant legal consequences. Companies that fail to meet smelter construction targets, fail to fulfill downstreaming obligations, or fail to fulfill financial obligations related to export relaxation may lose their right to obtain previously granted export facilities. This policy demonstrates that export relaxation is a conditional facility and can only be enjoyed by companies that demonstrate compliance with all applicable legal provisions. Therefore, the sanctions mechanism within the export relaxation policy serves as a monitoring instrument to ensure the achievement of downstreaming objectives and increase the added value of domestic mineral resources.

Mining companies' responsibilities extend beyond their efforts to gain economic profit from their business activities, but also include legal obligations to develop smelters and downstream processing, maintain environmental sustainability, fulfill social responsibilities to the community, and fulfill financial obligations to the state. Violations of these obligations can result in various forms of legal liability, including administrative, civil, and criminal. The existence of these accountability mechanisms demonstrates the state's commitment to realizing equitable and sustainable natural resource management that maximizes the prosperity of the people.

Thus, the responsibilities of mining companies extend beyond the obligation to obtain economic benefits from their business activities, but also encompass legal obligations to implement downstream processing, maintain environmental sustainability, fulfill social responsibilities, and fulfill financial obligations to the state. Violations of these obligations can result in various forms of legal liability, which are instruments of law enforcement in natural resource management.

B. Analysis of Company Compliance with Relaxation Provisions

The analysis of company compliance with the provisions on export relaxation of mining products is a legal study that assesses the extent to which mining business actors fulfill the legal obligations stipulated by the state in order to provide export relaxation facilities. From the perspective of state administrative law, this compliance is an important indicator in assessing the effectiveness of government oversight of the utilization of strategic and non-renewable natural resources. [16] Normatively, the export relaxation policy in the mining sector is essentially a form of exception to the downstreaming principle that requires domestic mineral processing and refining. Therefore, export relaxation is only granted with certain binding conditions, such as the obligation to build processing and refining facilities *(smelters)*, fulfill tax obligations, and comply with the work plan and budget (RKAB) approved by the government. Therefore, export relaxation cannot be viewed as an absolute right of companies, but rather as a conditional administrative facility.

In practice, the level of company compliance with export relaxation provisions is largely determined by the effectiveness of the government's oversight system, particularly the Ministry of Energy and Mineral Resources (ESDM). This oversight encompasses administrative, technical, and operational aspects, including verification of smelter construction progress, permitted export volumes, and compliance with environmental obligations. If a company fails to meet the requirements of the export relaxation, this is categorized as a form of legal non-compliance (*non-compliance*), which can result in administrative sanctions. These sanctions can range from warnings, temporary suspension of export activities, to revocation of export relaxation permits. Under certain circumstances, non-compliance can also escalate into more serious legal violations if it results in state losses or environmental damage.

From an administrative law perspective, corporate compliance is also closely related to the principles of *good governance*, particularly the principles of legal certainty, benefit, and accountability. Companies, as legal entities, are obligated to implement all provisions stipulated in the relaxation permit in a transparent and responsible manner, while the government is obligated to ensure that the relaxation policy is not misused by business actors. Therefore, an analysis of corporate compliance with export relaxation provisions shows that the effectiveness of the policy is highly dependent on the synergy between business actor compliance and firm government oversight. The higher the level of corporate compliance, the more optimal the relaxation policy's objectives of supporting the downstreaming of natural resources and increasing domestic added value.

C. Legal Analysis of Corporate Responsibility

A legal analysis of the responsibilities of mining companies in the context of the relaxation of exports of mining products is conducted to assess the extent to which the implementation of mining business activities has complied with applicable legal norms and to identify the legal consequences that arise if there is a violation of the obligations imposed on the company. This analysis has a crucial position because the export relaxation policy is essentially a form of legal policy that provides leniency to companies in exporting minerals under certain conditions, but still requires the fulfillment of various obligations that have been set by the government. Thus, the legal analysis does not only focus on the aspect of administrative compliance with licensing provisions, but also assesses whether the company has fulfilled all legal obligations inherent in mining business activities substantively in accordance with the objectives of the formation of legislation. [17]

From a mining law perspective, the responsibilities of companies that obtain export relaxation facilities must be analyzed based on the principle that all mineral resource management activities constitute the implementation of the state's right to control natural resources as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The consequence of this principle is that every company that obtains a permit to manage mineral resources not only obtains economic rights, but also bears various legal obligations aimed at ensuring that the utilization of natural resources continues to provide the greatest possible benefits for the prosperity of the people. Therefore, every form of relaxation provided by the government must be understood as a legal instrument that remains within the framework of state control and supervision.

Normatively, the responsibility of mining companies in implementing export relaxation is based on various provisions of laws and regulations, especially Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining and its various implementing regulations. These provisions emphasize that holders of Mining Business Permits (IUP) and Special Mining Business Permits (IUPK) are required to carry out business activities based on good mining practices, implement environmental management, fulfill reclamation and post-mining obligations, implement value-added increases through the construction of processing and refining facilities (*smelters*), and fulfill various financial obligations to the state. Thus, export relaxation does not eliminate companies' legal obligations, but only provides adjustments to the export mechanism while maintaining the company's primary obligation to support the national downstreaming policy.

Legal analysis also shows that export relaxation is a conditional policy. This means that the facility can only be granted if the company meets all government requirements, particularly regarding smelter construction commitments,

[16] Ridwan HR, *State Administrative Law*, Revised Edition, (Jakarta: Rajawali Pers, 2023), pp. 211–214.
[17] Peter Mahmud Marzuki, *Legal Research*, Revised Edition, (Jakarta: Kencana, 2021), pp. 133–136.

regular submission of progress reports, compliance with environmental regulations, and fulfillment of financial obligations related to export activities. Therefore, the existence of export relaxation cannot be interpreted as an exception to legal obligations, but rather as a transitional instrument that remains within the framework of government supervision to support the acceleration of the downstreaming of the national mining industry.

From a state administrative law perspective, export relaxation is a form of state administrative decision (*beschikking*) issued by government officials based on the authority granted by statutory regulations. As an administrative decision, export relaxation is individual, concrete, and final in nature and contains certain conditions that must be complied with by the permit recipient. Therefore, companies that obtain this facility are legally obligated to comply with all requirements stipulated in the export relaxation decision. If the company fails to fulfill these obligations, the government has the authority to impose administrative sanctions in the form of written warnings, administrative fines, temporary suspension of business activities, freezing of permits, revocation of mining business permits, or revocation of export relaxation facilities as a form of administrative law enforcement.

From a civil law perspective, the legal analysis is directed at the possibility of corporate liability arising from losses suffered by the state, the community, or third parties as a result of violations of the company's legal obligations. Failure to comply with obligations regarding smelter construction, environmental management, or other obligations can result in economic and environmental losses, which ultimately form the basis for claims for compensation based on the concept of unlawful acts (*onrechtmatige daad*). In environmental cases, companies may not only be required to pay compensation to the injured party but may also be ordered to undertake remedial measures for the environment damaged by mining activities. This analysis demonstrates that civil liability functions not only as a compensation mechanism but also as an instrument for redressing losses caused by mining business activities.

Meanwhile, from a criminal law perspective, legal analysis focuses on the possibility of violations that fulfill the elements of a criminal act as stipulated in laws and regulations. Violations related to export activities that do not comply with legal provisions, submitting false reports, waste management that results in environmental pollution, mining activities without permits, or other actions that harm the state can result in criminal liability for corporations and company managers. The development of corporate criminal law in Indonesia shows that legal entities are no longer viewed solely as subjects of civil law, but can also be held criminally liable if proven to have committed a crime through policies, decisions, or actions of company organs. Thus, the company as a corporation and the managers responsible for decision-making can be subject to criminal sanctions in accordance with applicable laws.

In addition to these three forms of accountability, legal analysis also shows a close relationship between corporate responsibility and the principles of environmental law and sustainable development. Export relaxation should not, in essence, reduce companies' obligations to maintain a balance between economic interests, environmental protection, and public welfare. Therefore, any policy that provides convenience to companies must be accompanied by an effective oversight mechanism so that sustainable development goals can be optimally achieved. This approach reflects the application of the precautionary principle, the polluter pays principle, and the principle of state responsibility in managing natural resources for the benefit of present and future generations.

Thus, the legal analysis shows that corporate responsibility in implementing the relaxation of mining exports is multidimensional and cannot be separated from the mining legal system as a whole. This responsibility includes compliance with administrative obligations, civil liability for losses incurred, and criminal liability if the company commits a violation that meets the elements of a criminal act. This emphasizes that every export relaxation facility provided by the state remains within the framework of the rule of law, so its implementation must always be oriented towards legal certainty, justice, benefit, environmental protection, and the greatest possible prosperity of the people, as are the primary goals of natural resource management in Indonesia.

Based on the Hierarchy of Norms Theory (*Stufenbau Theory*) proposed by Hans Kelsen, the export relaxation policy regulated through Ministerial Regulations cannot be interpreted as eliminating the legal obligations of mining companies as stipulated in Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. From a hierarchical perspective, Ministerial Regulations are implementing regulations that obtain legitimacy from higher norms, so their validity must remain in line with the provisions of the Mineral and Coal Law and must not change or override the substance of imperative norms. Therefore, the obligation to process and refine (downstream) remains inherent in every mining company as a legal obligation that must be fulfilled, even though the company receives export relaxation facilities from the government.

This relaxation is essentially only a temporary administrative policy to accommodate certain conditions and is not a legal basis for removing or exempting companies from downstreaming obligations stipulated by law. Consequently, if a company does not fulfill its processing and refining obligations as mandated by the Mineral and Coal Mining Law, the company can still be held legally accountable in accordance with the provisions of laws and regulations, either in the form of administrative sanctions, civil liability, or criminal liability, according to the nature and level of the violation committed. Thus, the existence of the export relaxation policy does not eliminate the existence of company legal obligations, but only provides administrative space whose implementation must remain within the corridor of norms stipulated by law as norms that have a higher status.

D. Evaluation of Export Relaxation Policy

The evaluation of the export relaxation policy for mining products is a crucial part of legal analysis because it aims to assess the effectiveness, relevance, consistency, and impact of the policies implemented by the government in managing the mineral and coal mining sector. This evaluation is necessary to determine whether the export relaxation policy has achieved its intended objectives, namely accelerating the development of processing and refining facilities *(smelters),* increasing the added value of domestic mineral resources, maintaining the investment climate, and ensuring the optimization of state revenues. Furthermore, the policy evaluation also serves as a basis for the government to improve existing regulations so that the resulting policies can be more adaptive to evolving national development needs and the dynamics of the mining industry. [18]

From the perspective of state administrative law, the evaluation of export relaxation policies is important because every government policy must fulfill the principles of legality, legal certainty, benefit, and accountability. Export relaxation is a form of administrative policy that arises from the government's authority to regulate the use of natural resources for the public interest. Therefore, its implementation must remain within the applicable legal corridor and must not conflict with the main objective of natural resource management as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, namely for the greatest possible prosperity of the people. Evaluation of this policy is an important instrument to ensure that every government decision remains in line with the principles of the rule of law (*rechtstaat*) and the principles of good *governance.*

Normatively, the export relaxation policy in the mining sector is a transitional and conditional policy. This policy was created as a government response to the need to maintain the continuity of mining business activities while providing companies with the opportunity to complete the construction of domestic mineral processing and refining facilities. Therefore, the export relaxation is not intended as a permanent exemption from downstreaming obligations, but rather as a temporary instrument provided on the condition that companies continue to fulfill their smelter construction commitments in accordance with established targets. Therefore, regular evaluation is crucial to ensure that the policy's primary objectives are achieved and that it does not shift into a policy that actually hinders the national downstreaming agenda.

From a legal effectiveness perspective, an evaluation of the export relaxation policy can be conducted by assessing the extent to which it encourages company compliance with smelter construction obligations and increases the added value of domestic mining products. The effectiveness of a legal policy is measured not only by the existence of governing legal norms, but also by the level of compliance of business actors in implementing these provisions. If export relaxation is able to accelerate the completion of smelter construction, increase the capacity of the national processing industry, and reduce dependence on raw material exports, then the policy can be deemed successful in achieving its intended objectives. Conversely, if companies only utilize relaxation facilities to maintain export activities without demonstrating significant progress in smelter construction, this indicates that the policy has not been implemented effectively and requires improvements in both regulatory and supervisory aspects.

An evaluation is also needed of the government's oversight mechanisms during the implementation of the export relaxation policy. Oversight is an integral part of the implementation of administrative policies, as it ensures that each company meets all requirements stipulated in the export relaxation permit. Effective oversight must be supported by a transparent reporting system, a verification mechanism for smelter construction progress, regular evaluations of company compliance with obligations, and the application of strict sanctions for any violations. Without optimal oversight, the export relaxation policy has the potential to be abused by companies, thus preventing the optimal achievement of downstream industrial development goals.

In addition to effectiveness, policy evaluation must also consider the aspect of legal certainty. Legal certainty is a fundamental principle in a state governed by the rule of law, requiring that every government policy have a clear legal basis, not conflict with higher-level laws and regulations, and provide clear guidance for all stakeholders. In implementing export relaxation, clarity of norms is crucial to avoid multiple interpretations regarding requirements, the relaxation period, indicators of smelter construction success, and the form of sanctions that will be imposed if companies fail to fulfill their obligations. Unclear regulations can create legal uncertainty, open up opportunities for abuse of authority, and reduce business confidence in the government's licensing system.

From a state administrative law perspective, the evaluation of export relaxation policies must also consider the application of general principles of good governance (*algemene beginselen van behoorlijk bestuur*). In this context, the government must ensure that every decision to grant export relaxation is based on the principles of objectivity, proportionality, transparency, and accountability, and does not contain elements of abuse of authority (*detournement de pouvoir*). The granting of relaxation to companies must be based on clear and measurable indicators, such as the level of progress of smelter construction, production capacity, readiness of the processing industry, contribution to state revenue, and company compliance with environmental provisions and other legal obligations. Thus, export relaxation policies not only reflect short-term economic interests but also support good governance and integrity.

Evaluation of the export relaxation policy also requires consideration of its impact on national economic development. From an economic perspective, this policy is expected to maintain investment stability in the mining sector, maintain the competitiveness of the national industry, create jobs, increase state revenue, and encourage the development of the domestic mineral processing industry. However, these economic benefits must be balanced with environmental protection, public interests, and the sustainable use of natural resources. Therefore, a comprehensive policy evaluation must be conducted, considering the balance between economic, legal, social, and environmental aspects as an inseparable whole.

Thus, the evaluation of the export relaxation policy demonstrates that it must be continually reviewed to ensure alignment between the interests of economic development, legal certainty, environmental protection, and the objectives of sustainable natural resource management. Periodic evaluations serve not only as a monitoring instrument for policy implementation but also as a basis for regulatory improvements so that the export relaxation policy continues to support the acceleration of downstream mining industry development, increase the added value of mineral resources, strengthen national competitiveness, and realize equitable and optimal natural resource management for the greatest prosperity of the people.

Conclusion

The regulation of relaxation of mining exports under Indonesian positive law is essentially a dispensative administrative policy or a temporary exception to normative

[18] Philipus M. Hadjon, *Introduction to Indonesian Administrative Law*, (Yogyakarta: Gadjah Mada University Press, 2022), pp. 175–178.

obligations stipulated in laws and regulations, particularly regarding the obligation to process and refine mining products (downstream processing). Normatively, the downstreaming obligation is an imperative in the Mineral and Coal Mining Law aimed at increasing added value and state control over natural resources. However, in practice, the government, through implementing regulations, grants export relaxations on the basis of factual conditions such as limited infrastructure and industrial readiness. This situation creates normative ambiguity and potential disharmony between statutory norms and administrative policies, thus implicating the weakening of legal certainty and consistency in Indonesia's positive legal system.

Mining companies remain fully responsible for the export relaxation of mining products, as a consequence of their legal status, even though the government has granted them a relaxation policy. In this context, export relaxation does not eliminate a company's legal obligations, but rather provides limited leniency in the implementation of certain obligations. Therefore, mining companies remain administratively responsible for complying with all requirements and provisions stipulated in the relaxation policy and applicable permits. Furthermore, companies may be held civilly liable for breach of contract or unlawful acts that result in losses to the state or other parties. Therefore, export relaxation cannot be used as a basis for avoiding legal responsibility, and companies remain obligated to uphold the principles of compliance, accountability, and responsibility to the state, society, and the environment.

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How to Cite This Article

Usman MF, Salim HS, Sood M. Responsibilities of mining companies in the relaxation of mining exports according to Indonesian positive law. Int J Judicial Law. 2026;5(5):51-66. doi:10.54660/IJJL.2026.5.5.51-66.