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Revisiting Indonesia's Mineral and Coal Mining Law: An Inquiry into the Adequacy of Public Participation

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Abstract This article examines the development of the legal framework regulating mineral and coal mining in Indonesia, highlighting the adequacy of public participation and its constitutional implications. The study analyses four primary Mining Law frameworks, commencing with Law Number 11 of 1967, progressing to Law Number 4 of 2009, including later reform amendments, and culminating with Law Number 2 of 2025, the most recent framework. The primary analytical approach utilises Arnstein's Ladder of Citizen Participation to assess the quality, status, and effect of public participation in the formulation and implementation of mining policy. The study reveals that, notwithstanding an increasing normative recognition of public interaction in post-reform legislation, these changes are mostly procedural rather than substantive. In the early stages of the New Order administration, public participation was almost absent, characterised by rigorous state control and an absence of deliberative possibilities. The post-reform administration instituted mechanisms for public participation; yet, this involvement frequently remains shallow, devoid of any guarantee of meaningful influence on strategic decision-making. The structure of Law Number 2 of 2025 illustrates the tension between the goals of efficient natural resource management, centralisation of authority, and the principle of popular sovereignty. This paper argues that this legal framework poses considerable difficulties in understanding public participation as a constitutional right, particularly concerning the article 33 of the 1945 Constitution of the Republic of Indonesia. This study promotes a conceptual restructuring of public involvement as an essential element of democratic natural resource management in Indonesia.

Keywords: Public Participation; Indonesian Mining Law; Minerals and Coal Governance

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A. Introduction

The abundance of natural resources is advantageous only if managed and utilised logically, ethically, and with a focus on long-term sustainability. The discourse on natural resource governance has consistently developed via critiques and reforms of extractive and short-term exploitation regimes throughout modern history.[1] For decades, the multidisciplinary academic community and practitioners have endeavoured to develop strategies that reconcile economic interests, environmental conservation, and social equity in natural resource management.[2]

By the late 19th century, natural resource management techniques in several nations established the state as a legitimate political entity authorised to regulate and utilise natural resources for economic and social advancement.[3] This paradigm is based on the premise that the state, through the collective mandate of its citizens, has the ultimate competence and authority to control the best use of natural resources. As the 20th century progressed, the escalation of production and the extensive worldwide growth of the mining sector had significant repercussions for environmental health, social inequality, and conflicts within legal frameworks and geopolitical structures.[4]

This circumstance has spurred a series of reforms in global natural resource management. International organisations, notably the World Bank, have significantly influenced nations to develop legislative frameworks, fiscal governance, and institutional structures for the mineral and coal mining industry.[5] This reform initiative seeks to enhance mining procedures that have been perceived as disregarding environmental sustainability and the rights of impacted populations. This reform initiative has established new standards for mining practices from both governmental bodies and the mining industry. Mining frameworks are increasingly requiring the incorporation of occupational safety, environmental protection, and sustainability concepts into mining licensing systems, fiscal policies, and institutional structures.

Simultaneously, there is an increasing focus on the status of local communities, as these groups experience the most immediate social and ecological consequences of mining operations. Consequently, contemporary mining management seeks to ensure communities' rights to knowledge, access to justice, and participation in policy development and

1 *Diego Andreucci / Giorgos Kallis*, Governmentality, Development and the Violence of Natural Resource Extraction in Peru, Ecological Economics 134 (2017), pp. 95-97.

2 *Emmanuel Yeboah-Assiamah / Kerstin Muller / Kofi Ahossey Domfeh*, Transdisciplinary approach to natural resource governance research: a conceptual paper, Management of Environmental Quality: An International Journal 29 (2018), pp. 15-33.

3 *Jenny Springer / Jessica Campese / Barbara Nakangu*, The Natural Resource Governance Framework – Improving governance for equitable and effective conservation, Gland 2021, pp. 3-5.

4 United Nations Department of Economic and Social Affairs, Harnessing the Potential of Critical Minerals for Sustainable Development, January 2025.

5 *Gary McMahon*, The World Bank's Evolutionary Approach to Mining Sector Reform, Washington 2010, p. 5.

decision-making about all mining activities in their vicinity. From a macroeconomic standpoint,[6] the mineral and coal mining sector is an essential catalyst for national development, as extractive activities substantially enhance state revenues, provide foreign exchange, generate employment, and foster the expansion of related economic sectors. Numerous studies, including those by Carvalho, Zhou et al., and the National Bureau of Asian Research, illustrate that mining industrialisation is pivotal in supplying vital raw materials and fostering infrastructure development, especially in previously secluded areas.[7] This consequently positions mining as a pivotal mechanism for expediting economic progress and regional advancement.

Nonetheless, these economic advantages are accompanied by repercussions, as multiple longitudinal studies, including those by Xiaoman et al., Singh et al., and Shah et al., demonstrate that nations rich in natural resource reserves frequently encounter significant difficulties in sustaining stable economic growth.[8] A seminal research conducted by Sachs and Warner on the economic performance of resource-rich vs resource-poor nations indicates, that resource wealth does not consistently correspond with prosperity. Several resource-scarce nations have attained significant economic development, whilst several resource-abundant countries remain mired in stagnation, resulting in an enduring economic crisis.

Auty identifies this phenomenon as the *resource curse*, referring to a state's inability to manage natural resources effectively for the wider public good.[9] Excessive reliance on extractive industries, compounded by volatile commodity prices and institutional weaknesses, heightens these vulnerabilities. Consequently, development discourse has shifted from an exclusive emphasis on economic growth towards prioritising community empowerment and participation. In this context, the International Council on Mining and Metals stresses that

6 *James Otto / Craig Andrews / Fred Cawood / Michael Doggett / Pietro Guj / Frank Stermole / John Stermole / John Tilton*, Mining Royalties: A Global Study of Their Impact on Investors, Government, and Civil Society, Washington 2006, pp. 137–140.

7 *Yongbin Zhou / Yiying Liu / Juanjuan Niu*, Role of mineral-based industrialization in promoting economic growth: Implications for achieving environmental sustainability and social equity, Resources Policy 88 (2024), p. 10; *Fernando P. Carvalho*, Mining industry and sustainable development: time for change, Food and Energy Security 6 (2017), p. 1; *Han Phoumin*, Indonesia's Strategy Toward Critical Minerals and Cooperation with the United States, The National Bureau of Asian Research, October 2024, https://www.nbr.org/ (last accessed on 1 June 2025).

8 *Wu Xiaoman / Abdul Majeed / Dinara G. Vasbieva / Claire Emilienne Wati Yameogo / Nazim Hussain*, Natural resources abundance, economic globalization, and carbon emissions: Advancing sustainable development agenda, Sustainable Development 29 (2021), pp. 3-4; *Sanjeet Singh / Gagan Deep Sharma / Magdalena Radulescu / Daniel Balsalobre-Lorente / Pooja Bansal*, Do natural resources impact economic growth: An investigation of P5 + 1 countries under sustainable management, Geoscience Frontiers 15 (2024), p. 10; *Syed Abdul Rehman Shah / Nasir Abbas / Luminita Serbanescu*, The key challenges and best alternatives to environmental sustainability: a comprehensive study, Scientific Reports 15 (2025), p. 5.

9 *Richard M. Auty*, Sustaining Development in Mineral Economies: The Resources Curse Thesis, New York 1993, pp. 1–5.

meaningful engagement with affected communities (particularly indigenous populations) constitutes both an ethical obligation and a normative imperative in contemporary mining practices.[10]

Indonesia distinctly illustrates the intricacy of this situation. The exploitation of abundant mineral and coal resources is seen as pivotal for national growth. Mining techniques, conversely, contribute to environmental deterioration, social discord, and persistent confrontations among communities, the state, and enterprises.[11] The occurrence of conflict in natural resource management is not an aberration; it is a result of divergent interests, values, and objectives among the stakeholders involved. According to Swingewood, conflict is defined as a form of social interaction that arises when competing claims to resources, power, or interests cannot be simultaneously satisfied.[12] In the context of mineral and coal mining, conflicts frequently emerge from inequitable access to decision-making processes and the distribution of benefits.

The Supreme Court of the Republic of Indonesia documented 2,176 final instances of conflicts adjudicated nationwide over the past five years, according to the most recent statistics for 2025. In 2020, there were 441 cases; in 2021, 394; in 2022, 364; in 2023, 385; in 2024, 312; and in 2025, at the time of reporting, 280 cases.[13] These figures do not include disputes that remain informally documented, particularly in regions with limited access to information and grievance mechanisms. With the growing public awareness of environmental and social rights, there is an increasing demand for greater accountability in mining governance. Communities are calling for transparency of information, institutional responsibility, and meaningful participation in decision-making processes, extending from the initial planning stage through to post-mining activities.

Nonetheless, public participation methods can devolve into mere symbolic administrative formalities. Formal systems like public hearings frequently function to legitimise policies, while failing to facilitate meaningful discussion on social and environmental consequences. This circumstance has engendered scepticism towards official involvement avenues. Kurniawan observed that several impacted populations utilise techniques beyond formal frameworks, like protests and mass mobilisations, to articulate their grievances.[14]

10 International Council on Mining and Metals, ICMM's Mining Principles Respond to Evolving Societal Expectations of the Mining and Metals Industry, 2024, https://www.icmm.com/en-gb/our-principles (last accessed on 26 January 2026).

11 *Mohamad Nasir / Muhamad Muhdar / Laurens Bakker*, Coal hauling on public roads in East Kalimantan: Regulatory failures, overlapping authorities, and conflicts, Resources Policy 113 (2026), p. 3.

12 *Alan Swingewood*, A Short History of Sociological Thought, London 1991, p. 187.

13 Mahkamah Agung Republik Indonesia, Direktori Putusan Mahkamah Agung Republik Indonesia, https://putusan3.mahkamahagung.go.id/search.html (last accessed on 27 January 2026).

14 *Nanang Indra Kurniawan / Päivi Lujala / Ståle Angen Rye / Diana Vela-Almeida*, The Role of Local Participation in the Governance of Natural Resource Extraction, Extractive Industries and Society 9 (2022).

This scenario underscores the disparity between the normative acknowledgement of public participation and the actual practices in mining governance.

Consequently, the administration of mineral and coal resources needs a comprehensive strategy that incorporates the state, communities, and civil society organisations within a paradigm of democratic and sustainable governance. The legitimacy of mining policy hinges on the degree to which their creation process secures public endorsement and facilitates substantial community engagement. This article analyses the formulation and implementation of public involvement within the Indonesian mining legislative framework, from the initial Mining Law to the latest iteration. This research seeks to offer a normative contribution to the development of mining policies that are more attuned to community rights and aspirations in the future.

B. Method

This study employs a doctrinal legal research methodology utilising conceptual, statutory, and constitutional approaches. This technique was selected due to the study purpose, which centres on a normative examination of the sufficiency of public participation in the legislative process in Indonesia, specifically regarding alterations in the legal framework for mineral and coal mining. The statutory method carefully analyses the evolution of public involvement requirements throughout many legislative frameworks, particularly Law Number 4 of 2009 on Mineral and Coal Mining and its amendments, culminating in Law Number 2 of 2025 as the latest framework. The research examines the normative framework, regulatory methods, and internal coherence among rules that control public involvement in the legislative process and public decision-making. The conceptual approach constructs a theoretical analytical framework for public participation, employing participatory democracy theory, legislative formation theory, and the principle of good governance. Arnstein's theory of participation levels serves as an analytical framework to evaluate the quality and extent of participation assured by law, while also differentiating between substantive and symbolic involvement.

Additionally, a constitutional methodology is employed to evaluate the alignment of public participation legislation with constitutional tenets, including popular sovereignty, democratic governance, and the ideal of transparency as outlined in the 1945 Constitution of the Republic of Indonesia. This methodology enables the research to frame the 2025 Minerba legal regime as a definitive instance, serving as the quintessential example to evaluate whether recent legislative advancements embody the realisation or erosion of constitutional norms on public participation. The legal materials utilised comprise main legal materials, including pertinent legislation and Constitutional Court rulings; secondary legal materials, encompassing scholarly literature, legal theories, and policy reports; and a restricted selection of non-legal items to enhance the analytical framework. All resources undergo qualitative analysis employing prescriptive and argumentative reasoning strategies to yield logical and critical normative findings.

C. Results and Discussion

I. Foundational Thinking in the Formation of Legislation in Indonesia

Laws are a tangible embodiment of the essential principle of the rule of law, guaranteeing that government is systematic in both vertical and horizontal interactions among social actors.[15] Laws function as the legal foundation for governmental operations, serving both as a technocratic regulatory instrument and as a manifestation of the state's values, attitudes, and objectives.[16] Consequently, the establishment of laws should be perceived not just as a formal-procedural undertaking, but as a manifestation of the legal principles (*Rechtsidee*) and state ideals (*Staatsidee*) inherent inside a nation.

In Indonesia, legality is embodied in the esteemed principles of *Pancasila*. Kaelan emphasises that Pancasila constitutes the intellectual foundation of Indonesian legislation, explicitly oriented towards the attainment of social justice as a prerequisite for collective prosperity.[17] This vision encompasses both material and spiritual dimensions, while maintaining a proportionate balance between the individual and society. Soeprapto further elaborates that Pancasila, as both a national and legal ideal, performs formative and regulative functions in the life of the nation and the state.[18] Through its formative role, Pancasila provides the normative framework for the establishment of the state and its legal system, whereas its regulative role offers an evaluative criterion for the exercise of state authority. As an open philosophy, Pancasila is expected to remain responsive to societal change while safeguarding its identity and fundamental value orientation.

Moreover, as the cornerstone of the state, Pancasila must function as a conceptual framework, a repository of values, and a guiding principle in the evolution of national legislation.[19] In this context, ideology should not be perceived only as a compilation of normative slogans, but as a comprehensive framework that influences perceptions regarding the interplay of the state, law, and citizens.[20] Ideology comprises foundational ideas, essential concepts, and shared values that guide the implementation of governmental authority. Buchanan and Levinson define ideology as a framework of abstract reasoning applied to

15 *Muhamad Pelengkahu*, Interpretation, Inclusiveness, and Ambiguity: A Critique of Rule Design in Modern Legal System, The Indonesian Journal of International Clinical Legal Education 7 (2025), p. 401.

16 *Pelengkahu*, note 15, p. 405.

17 *H. Kaelan*, Negara Kebangsaan Pancasila: Kultural, Historis, Filosofis, Yuridis, Dan Aktualisasinya, Yogyakarta 2013, pp. 1–7.

18 *Soeprapto*, Implementasi Pancasila Dalam Kehidupan Bermasyarakat Berbangsa Dan Bernegara, Jurnal Ketahanan Nasional 10 (2005), pp. 18-19.

19 *Haposan Siallagan / Otong Syuhada*, The Role of Pancasila in the Formation of National and Regional Regulations, Journal of Law and Sustainable Development 11 (2023), p. 3.

20 *Siallagan / Syuhada*, note 19, p. 10.

societal matters, hence constituting the core of political activity and legal policy.[21] Ideology, as a conceptual framework, is typically categorised into open and closed ideologies. Open ideologies originate from societal ideals and ambitions, evolve via dialogue, and remain receptive to critique and transformation. Conversely, closed ideologies are normative frameworks enforced hierarchically, frequently mirroring the objectives of certain factions and utilised as instruments of social engineering.

Pancasila is normatively regarded as an open ideology.[22] Thus, the development of law must embody transparency to public desires and attentiveness to genuine societal requirements. This idea is constitutionally grounded in the 1945 Constitution of the Republic of Indonesia, which serves as the paramount legal authority, stipulating that all legislation must align with and not contravene constitutional standards. Moreover, the Preamble to the 1945 Constitution delineates the national legal strategy grounded on Pancasila and aimed at realising state objectives. This policy directive embraces all facets of national and state existence (political, economic, socio-cultural, and environmental), so establishing law as a cohesive tool that must be developed in a participative, equitable, and democratic fashion.

II. Public Participation in the Formation of Legislation in Indonesia

Pancasila, as the foundational philosophy of the nation, distinctly underscores the principles of mutual collaboration, deliberation, and popular sovereignty, which are normatively embodied in the fourth principle. These ideals strongly correlate with the notion of public participation in the development of public policy, including the legislative process. Public involvement should not be only a procedural formality; it is a fundamental tool to guarantee that passed laws reflect the intentions and interests of the populace. Sherry Arnstein posits that community engagement exists on a continuum from superficial informational participation (*tokenism*) to collaborative involvement and complete community empowerment (*citizen power*), wherein data subjects or people exert genuine influence in strategic decision-making.[23] An successful participation model not only aids in the creation of inclusive legislation but also functions as a tool for alleviating social conflict and enhancing democratic legitimacy in the control of natural resources.

Law is fundamentally a collection of standards instituted by an authoritative body, whereas legislation encompasses both the methodology and the procedure by which these norms are created.[24] In a democratic society, the lawmaking process is inherently linked to

21 *Allen Buchanan / Enrique Levinson*, Theories of Ideology: Origins, Development, and Prospects, Social Philosophy and Policy 41 (2024), pp. 13-15.

22 *H. Kaelan*, Filsafat Pancasila: Pandangan Hidup Bangsa Indonesia, Yogyakarta 2009, p. 21.

23 *Sherry R. Arnstein*, A Ladder of Citizen Participation, Journal of the American Planning Association 35 (1969), p. 220.

24 *Pelengkahu,* note 15, p. 415.

the notion of popular sovereignty.[25] Public involvement acts as a safeguard against power abuse, directs public ambitions, engages citizens in decision-making, and fundamentally reinforces the notion of popular sovereignty.

Public involvement is hence both a right and a duty of citizens to achieve effective administration. The criteria for establishing participatory legislation encompass: a commitment to good governance; adherence to the principles of transparency, accountability, and oversight; acknowledgement of participation as both a right and a duty; enabling stakeholders to engage equitably; consideration of all aspirations without bias; decision-making via a just and impartial process; extensive access to public information; and a mechanism for assessing policy outcomes.

Arnstein's theory of participation offers a significant analytical framework by categorising public involvement into eight tiers, determined by the degree of power possessed by the public, spanning from manipulation to citizen control. The eight stages may be categorised into three overarching groups: non-participation, tokenism, and citizen power. This approach illustrates that various types of involvement possess differing democratic attributes; symbolic engagement devoid of genuine impact may sustain the supremacy of state authority. Attamimi asserts that the legislative process in Indonesia must adhere to essential principles, specifically those rooted in the ideals of Indonesian law (Pancasila), the rule of law, and a government founded on the constitutional system.[26] Pancasila functions as a normative guiding principle and a foundational norm that invigorates the whole legal system.

The notion of public participation is intrinsically linked to the principle of transparency. In the absence of transparency, participation devolves into a superficial formality. The notion of openness, encompassing both transparency and accessibility, is essential for the realisation of democratic and accountable governance. In a democratic state, transparency is seen as a constitutional ideal that governs the appropriate and responsible exercise of power. As a democratic nation, Indonesia is required to ensure participation and transparency as fundamental elements of democratisation. Couwenberg observes that a democratic *rechtsstaat* is underpinned by the concepts of accountability, transparency, political rights, the majority principle, and the principle of representation.[27] Magnis-Suseno asserts that popular sovereignty necessitates that government operates under the authority of the populace, facilitated by representative systems and transparent decision-making procedures.[28]

25 *George Duke*, Habermas, Popular Sovereignty, and the Legitimacy of Law, Law and Critique 35 (2024), p. 240.

26 *A. Hamid S. Attamimi*, Teori Perundang-Undangan Indonesia [Indonesia's Theory of Legislation], Paper presented at the Inaugural Lecture for the Position of Full Professor at the Faculty of Law, Universitas Indonesia, Jakarta 1992, p. 11.

27 *S.W. (Wim) Couwenberg*, Westers Staatsrecht ALS Emancipatieproces: Ontwikkeling Van de Constitutionale Emancipatiefunctie in de Democratische Rechtsstaat, Alphen aan den Rijn 1977, p. 25.

28 *Franz Magnis-Suseno*, Etika Politik: Prinsip-Prinsip Moral Dasar Kenegaraan Modern, Jakarta 1987, pp. 20-25.

In the context of good governance advocated by the World Bank and UNDP, participation is seen as a fundamental attribute of effective government.[29] UNDP defines participation as community engagement in the policy formation process, either directly or via lawful representative organisations.[30]

The notion of public involvement is normatively incorporated in Article 96 of Law Number 12 of 2011 about the Formation of Legislation, as revised by Law Number 13 of 2022.[31] This clause asserts the state's duty to create the broadest feasible opportunities for involvement, including access to information and the formulation of draft rules. In the absence of substantial involvement, democracy in legislative processes is at risk of devolving into just formal mobilisation. Consequently, public scrutiny of the legislative process is not only a normative desire but a constitutional duty imposed on politicians, including both the House of Representatives and the President.

III. Public Participation in the Mineral and Coal Mining Management Post-Independence

1. Regime of Law Number 11 of 1967 concerning Basic Provisions on Mining (The Mining Act 1967)

Law Number 11 of 1967 concerning Basic Provisions on Mining (Mining Act 1967) was enacted within the political framework of the New Order during President Soeharto's administration. In the realm of legal political studies, Mahfud MD elucidates that laws are not formulated in a value-neutral environment; rather, they are invariably a manifestation of power dynamics, state ideology, and the developmental strategies embraced by the governing authority.[32] Within the framework of the New Order, the governing authority effectively utilised legislation as a tool for political and a driver of economic advancement, resulting in the constriction of democratic space and stringent regulations on public participation.

Lubis, as referenced by Sutrisna, observed that the New Order administration effectively institutionalised authoritarian power, relegating the populace to the status of development subjects.[33] This perspective is supported by Agustino, who references the New Order as the most tangible illustration of the challenges inherent in achieving a democratic society, state, and nation.[34] The regime's principal objective was to establish political order, foster econo-

29 The World Bank, Governance: The World Bank's Experience, Washington 1994, pp. 42-47.

30 United Nations Development Programme, Governance for Sustainable Human Development, New York 1997, p. 14.

31 *Muhamad Pelengkahu / Najib Satria*, Web-Based Citizen Contribution: A Model to Optimize Political Participation in the Legislation Function of the Representative Council, Jurnal Kajian Pembaruan Hukum 2 (2024), p. 340.

32 *Moh. Mahfud MD*, Politik Hukum di Indonesia, Jakarta 1998, p. 251.

33 *I Wayan Sutrisna*, Partisipasi Masyarakat Dalam Kebijakan Anggaran Daerah, Jurnal Ilmiah Cakrawarti 1 (2020), p. 31.

34 *Leo Agustino*, Partisipasi Publik Dalam Proses Menuju Indonesia Baru Evaluasi Terhadap Perkembangan Pemerintahan, Unisia 28 (2005), p. 72.

mic progress, and eradicate public involvement in government. These traits were evident in the military's significant political influence, the bureaucratisation and corporatisation of socio-political entities, and the implementation of selective repression against groups viewed as threats to stability.

In this political atmosphere, public participation in policymaking, particularly with the creation and execution of the Mining Act 1967, had a distinct character compared to the pre- and post-reform eras. Public involvement was not conceived as a democratic entitlement for citizens, but rather as a mechanism to legitimise governmental authority. Moreover, public participation during the New Order regime, utilised as a mechanism to legitimise authority, was conducted through three principal forms of engagement to assure its perceived significance. Initially, involvement was restricted and regulated. The New Order dictatorship exercised total control over the arenas and modalities of public participation.[35] The public was urged to endorse official programs, while avenues for dissent and resistance were ruthlessly suppressed. Any manifestation of dissent was perceived as a threat to political stability and national progress.

Secondly, participation is defined by mobilisation. The New Order dictatorship employed the state civil bureaucracy and a network of social organisations to engage the population in different preordained development plans and political activities.[36] This engagement sought to establish a participative image rather than facilitate a forum for discourse. This mobilisation pattern was apparent in the conduct of general elections, which occurred regularly but within a tightly regulated framework. Third, involvement was superficial.[37] Public participation was restricted to administrative and symbolic functions, precluding any significant impact on policy direction. Deliberation and consensus served as methods for reaching agreement, although the essence of conclusions was preordained by the state.

The aforementioned three patterns establish a contrived framework for public participation. Although the public seems engaged, this engagement is not meant to affect the decision-making process. This trend results in political stability and expedited economic progress, but at the expense of diminished democratic quality and the disregard for individuals' political rights. The interaction between the state and society under this system is exclusively unilateral. Decisions are made centrally, with the public serving as the beneficiary of policy. This decision-making mechanism exemplifies the instrumental and authoritarian characteristics of the New Order legal framework.

Moreover, an examination of the legal framework of the Mining Act 1967 discloses an absence of provisions that facilitate public involvement in the development of mining

35 *Mark T. Berger*, Old State and New Empire in Indonesia: Debating the Rise and Decline of Suharto's New Order, Third World Quarterly 18 (1997), p. 325.

36 *Muhamad Pelengkahu*, Model Pengaturan Pengelolaan Pertambangan Mineral dan Batubara Berbasis Keadilan Ekologis [A Regulatory Model for Mineral and Coal Mining Management Based on Ecological Justice], [Undergraduate Thesis], Universitas Sebelas Maret 2024, p. 210 (last accessed on 27 January 2026).

37 *Pelengkahu,* note 36, p. 220.

policy. The public lacks a method to express criticism, complaints, or input about the identification of mining areas, the issuance of mining permits, or the execution of extractive operations. The draughting process of the Mining Act 1967 reveals an absence of mechanisms for public participation in its discussion or development.

Nonetheless, the Mining Act 1967 offers restricted opportunities for community engagement through artisanal mining. Article 5 (e) characterises artisanal mining as the extraction of minerals conducted by local individuals on a small scale or via collaborative efforts utilising basic tools for their subsistence. This clause was regarded as an acknowledgement of traditional mining techniques that had been conducted for generations prior to the ascendance of the New Order administration. Artisanal mining has always been integral to the economic activities of local communities and indigenous populations, predating the establishment of the Indonesian state.[38] Mineral resource extraction is conducted in accordance with customary law, which recognises communal rights, encompassing ownership of resources both above and below the land's surface. This approach redefines permits as a social authority intrinsic to the community that has the customary area, rather than viewing them as a mere administrative tool of the state.

The Mining Act 1967 disrupted historical continuity by conferring Mining Authorisation holders' comprehensive rights to engage in extractive operations inside regions that are socially and culturally inhabited by indigenous groups. Any activity considered to obstruct "legitimate" mining activities was classified as illegal, thereby denying traditional mining practices and customary rights normative protection. This situation led to communities losing their negotiating power in deciding the future of their own environment. The examination of community engagement under the Mining Act 1967 regime is elucidated when interpreted through Arnstein's ladder of participation theory.

Arnstein's typology categorises participation into eight levels, which are organised into three overarching categories: non-participation, tokenism, and citizen power. According to normative and empirical analysis, public participation under the Mining Act 1967 regime is classified as non-participation, the lowest tier of the participation hierarchy. The public's engagement through mass organisations, elections, and deliberative forums is really an illusion. Arnstein characterises this scenario as a type of manipulation and treatment, wherein involvement is employed to mitigate any public opposition and fabricate an illusory feeling of legitimacy for governmental policies. The public is regarded as an entity to be managed and manipulated, rather than as a political agent capable of influencing policy direction. As previously said, public participation just serves as a validation for decisions that have already been made. In this instance, public participation lacks any corrective impact on mining policy, much less the capacity to affect the allocation of power and resources.

38 *Ami A. Meutia / Royke Lumowa / Masayuki Sakakibara*, Indonesian Artisanal and Small-Scale Gold Mining —A Narrative Literature Review, International Journal of Environmental Research and Public Health 19 (2022).

Consequently, the Mining Act 1967 framework signifies the nadir of public participation in the annals of Indonesian mining legislation.

2. Regime of Law Number 4 of 2009 concerning Mineral and Coal Mining (The Mining Act 2009)

Subsequent to the 1998 Reformation, the dynamics of the connection between the state and society in the development of public policy saw a profound transformation. Constitutional change, the enhancement of human rights, and the implementation of decentralisation via regional autonomy fostered a new recognition of society as a vital entity in state government.[39] In the realm of natural resource management, this consciousness has prompted calls for society to be regarded not only as a subject of policy, but as an entity with normative, ecological, and social interests that must be considered at every phase of decision-making.[40]

This development signifies a substantial departure from the Mining Act 1967, which fundamentally positioned communities at the lowest tier of the participation hierarchy. The prior regime's practices positioned communities in the lowest tier of the participation hierarchy. Under the previous regime, communities were considered as beneficiaries of policy impacts, with little significant scope for deliberation in the planning or identification of mining sites. This relational pattern cultivated a hierarchical governance framework that sidelined local ambitions and disregarded the ecological interplay between habitation and extractive practices. The Mining Act 2009 was enacted in a distinct political context. The ethos of decentralisation and regional autonomy cultivated anticipations that mining governance ought to be more attuned to the needs of local regions and people.

The Mining Act 2009 established public involvement as a normatively legitimate element for national mining governance. The incorporation of participatory principles (refer to Article 2(c)), openness, and accountability illustrates lawmakers' attempts to embed democratic norms inside the extractive industry, traditionally associated with centralised authority. In the normative formulation of the Mining Act 2009, public participation is no longer regarded a symbolic activity, but rather an essential feature inherent in various stages of mining management. The regulations regarding the designation of mining regions, licensing, community empowerment, and oversight of corporate operations reflect an acknowledgement that communities possess a direct interest in mining activities. This acknowledgement is also linked to the assurance of the right to a sound and healthy environment, therefore reinforcing the community's status as a legitimate stakeholder.

39 *Aditya Prabowo / Muhammad Bagas Zalika Tjenreng*, Decentralization and Regional Autonomy: A Historical and Conceptual Review, International Journal of Science and Society 7 (2025), p. 420.

40 *Petrus Gunarso / Titiek Setyawati / Terry Sunderland / Charlie Shackleton* (eds.), Managing Forest resources in a decentralized environment: lessons learnt from the Malinau research forest, East Kalimantan, Indonesia, Bogor 2007, pp. vi-vii.

Decentralisation is fundamental in influencing this participatory design. In this context, according to the Regional Government Law, mining activities are classified as a component of regional authority, but within a coordinating framework with the central government. The interplay between central and regional authorities regarding financial management and natural resource allocation enables local people to express their goals via local governments. The Mining Act 2009 illustrates that public participation is intrinsically linked to the calls for distributive justice, openness in income allocation, and acknowledgement of ecological concerns as the living and social environment of production areas.

The Mining Act 2009 normatively incorporates several types of involvement, encompassing both direct and indirect methods. Direct participation is shown in the need to cultivate and enhance communities, prioritise local workforce, and offer avenues for community engagement in artisanal mining (see to Articles 6 & 7). Simultaneously, indirect participation is shown through consultation processes, public disclosure of activity plans, and collaboration among the central government, regional governments, and representative entities. This array of forms illustrates that involvement exists along a spectrum rather than conforming to a singular model. Nonetheless, this normative acknowledgement does not inherently ensure the sufficiency of participation in a real context.

The critique of the Mining Act 2009 is on the excessively vague participation standards, which depend on governmental discretion (see to Article 7(i)). The provisions concerning community engagement are articulated in a manner that permits extensive administrative interpretation, lacking a definitive method to guarantee that community goals genuinely impact decision-making. This jeopardises involvement by potentially confining it to a procedural level devoid of robust corrective authority. The issue regarding the normative character of participation under the Mining Act 2009 has to be located within the context of normative legal theory. Legal norms are fundamentally evaluative, functioning as criteria for evaluating and directing social conduct towards specific values. Consequently, the normative aspect of involvement should not be indiscriminately seen as a deficiency. The primary concern is the degree to which these norms are intended to induce transformative changes in the power dynamics among the state, companies, and society.

Moreover, an examination of the Mining Act 2009 through the lens of Arnstein's ladder of participation reveals that, although participation is broadly acknowledged, its normative framework has not attained a degree of engagement that confers meaningful power or authority to communities. Current standards predominantly enable participation through the expression of desires, consultation, or economic empowerment, without conferring the authority to actively impact strategic choices. The Constitutional Court's decision No. 10/PUU-X/2012 concerning the phrase "taking into account community opinions" in the designation of mining sites serves as a notable signal of these constraints. The Court underscored that community engagement should be seen as the state's duty to safeguard, honour, and realise the interests of impacted groups. This verdict illustrates that the original framework of the Mining Act 2009 was not entirely consistent with constitutional tenets of popular sovereignty and the safeguarding of community rights.

Upon further examination via Arnstein's ladder, involvement in the Mining Act 2009 predominantly occurs at the levels of placation and consultation (see to Articles 23, 24, 38, 46, 51, 57, 69, and 113 (4)). The public is afforded the opportunity to articulate thoughts and participate in certain activities, while ultimate authority resides with the government. In certain respects, involvement ceases at the informing stage, characterised by unidirectional communication via official announcements and publications. This trend suggests that participation now serves not as a power-sharing mechanism, but as a method of legitimising policies. Nevertheless, it is vital to emphasise that the Mining Act 2009 nevertheless shows normative improvement relative to the prior system. The clear acknowledgement of involvement, the enhancement of local government authority, and the connection to environmental rights constitute the fundamental basis for the democratisation of natural resource management. This foundation acts as a crucial benchmark for evaluating later alterations.

Thus, the Mining Act 2009 regime might be seen as a transitional period. This government expressed ambitions for decentralisation and democratisation, although it has not effectively implemented robust, binding participation procedures. This stance elucidates why the post-2009 regime has transformed into a battleground between the reinstatement of state authority and the need for more citizen engagement.

3. Regime of Law Number 3 of 2020 Concerning Amendments to Law Number 4 of 2009 Concerning Mineral and Coal Mining (Mining Act 2020) Juncto Law Number 6 of 2023 Concerning Job Creation (Job Creation Law)

a) The Mining Act 2020

The amendment of the Mining Act 2009 on Mineral and Coal Mining via the Mining Act 2020 signifies a pivotal stage in the development of mining regulation in Indonesia. This alteration occurred within a political-legal environment marked by a vigorous drive for centralisation of power, expedited investment, and modification of the national regulatory structure to align with global economic trends.[41] The matter of public involvement has a pivotal role in this context, as it is intrinsically linked to the democratic legitimacy of natural resource management and the notion of state control aimed at maximising the welfare of the populace. The Mining Act 2020 regime has a heightened acknowledgement of public participation relative to its predecessor. This enhancement is seen in the proliferation of participatory language, acknowledgement of impacted communities, and legislation governing local government engagement in mining area planning. Nonetheless, within the context of Arnstein's Ladder of Participation analysis, this extension cannot be unequivocally construed as an augmentation of public authority in decision-making. An evaluation of public participation necessitates an analysis that prioritises power dynamics

41 Constitutional Court of the Republic of Indonesia, Govt: Mineral and Coal Mining Law Amended to Rehabilitate Mining Sector, 5 January 2022, https://www.mkri.id/index.php?page=web.Berita&id=17942 (last accessed on 28 January 2026).

as the central variable, rather than merely the presence of processes or the degree of administrative engagement.

The formulation of the Mining Act 2020 is a fundamental foundation for evaluating the essence of public participation. The government and the House of Representatives (DPR) said that they have facilitated participation via public hearings, stakeholder discussions, and the engagement of local governments and the Regional Representative Council (DPRD). The assertion of transparency was then evaluated through a formal legal assessment at the Constitutional Court, which determined if the legislative process adhered to the concept of substantive participation as required by the constitution. The Constitutional Court, in Decision Number 60/PUU-XVIII/2020, underscored that public involvement does not necessitate unanimous approval from all parties, but rather the provision of access and the chance to articulate objectives.[42] The Court's reasoning highlighted the importance of adhering to procedural requirements, including the recording of formal invitations and participation in discussion forums. This approach affirms that the constitutional criterion for public participation in Indonesia is seen more as the "*right to be heard*" rather than the "*right to decide*".

This legal framework theoretically positions involvement in the Mining Act 2020 at the consultation tier of Arnstein's ladder of participation. The public is afforded two-way contact; nonetheless, decision-making authority is exclusively retained by policymakers. Despite the Court's intention to enhance legislative quality via the notion of meaningful participation, the execution of Decision No. 60/PUU-XVIII/2020 appears to diminish participation to a simple procedural formality. This establishes a legal paradox: participation is acknowledged as a constitutional right, yet it forfeits the coercive authority to legally influence policy content. Consequently, public participation in the legislative process frequently serves just as a tool for procedural legitimacy, rather than as a significant participant in decision-making.

Moreover, the Mining Act 2020 affirms the participation of regional governments and the Regional Representative Council (DPRD) in the deliberation of mining policy. Such involvement, however, takes place within a consultative framework that does not permit corrective influence over final decisions. This arrangement consolidates central authority and defines mining zones, thereby diminishing regional autonomy in the governance of mineral and coal resources. In this context, subnational entities serve merely as supplementary sources of information and administrative legitimacy. Although regional administrations may express their perspectives and aspirations, they lack the legal competence to amend or overturn policies determined by the national government. This condition exemplifies the stage of *placation* in Arnstein's Ladder, wherein peripheral actors are granted limited engagement without any genuine redistribution of power.

42 Constitutional Court of the Republic of Indonesia, Decisions Number 60/PUU-XVIII/2020; 91/PUU-XVIII/2020; and 37/PUU-XIX/2021.

An examination of the participation standards in the Mining Act 2020 indicates an expanded acknowledgement of impacted communities. The regulations for the identification of Mining Areas (refer to Article 10) mandate the government to take into account community goals, the entitlement to a healthy environment, and regional interests. This standard signifies advancement relative to the prior, more technocratic government. Nonetheless, expanding normative recognition does not correspond to enhanced public control. These laws are devoid of a veto mechanism, binding objection rights, or the government's duty to modify policies depending on participation results. In this instance, community ambitions function just as a consideration rather than a decisive element, thus aligning with Arnstein's concept of high-level tokenism.

Despite legislation concerning the transparency of regional plans and public consultations suggesting enhanced access to information, these processes have not substantially altered the power dynamics in decision-making. The state maintains complete control over zoning and strategic licensing in the mining and coal sectors. This phenomenon is underscored by the Constitutional Court's position in Decision Number 60/PUU-XVIII/2020, which declined to evaluate the quality of public impact on legislative substance. The Court regarded the establishment of material content as a question of political discretion (open legal policy) by the lawmakers.[43] This statement affirms the presence of strict constitutional limits, wherein participation is legally acknowledged yet significantly constrained.

Analysed through the lens of the Arnstein Ladder, these constraints indicate that the Indonesian legislative framework has not yet embraced the notion of public empowerment in the development of strategic natural resource policy. Public participation is largely regarded as a tool for legitimacy rather than a means of power distribution. The Mining Act 2020 regime signifies an enhancement of formal involvement mechanisms; however, it persists within a hierarchical structure that designates the state as the preeminent entity.

The public participation framework established by the Mining Act 2020 might be categorised as deliberative tokenism. Participation is enabled by consultative forums, normative acknowledgement, and comparatively transparent administrative processes. In this instance, discussion manifests as the expression of opinions and ambitions, however, fails to affect a significant alteration in power dynamics. This intentional tokenism reinforces the legitimacy of mining policy within the framework of procedural democracy. The public is acknowledged as a legal entity, yet continues to occupy the role of policy receiver. This framework embodies a concession between the requisites for democratic engagement and the objective of centralising natural resource governance.

43 Constitutional Court of the Republic of Indonesia, Decision Number 2/PUU-XXII/2024 (Judicial Review of the Mineral and Coal Mining Law regarding Special Mining Business Permit Area (WIUPK) for Religious Organisations), 3 January 2025. The Court dismissed the petition, ruling that granting priority mining permits to religious organisations constitutes an "open legal policy" intended to expand public participation.

b) Job Creation Law 2023

The enactment of Law No. 6 of 2023, which pertains to the stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation, signifies a new phase in the political and legal evolution of natural resource management in Indonesia. This regime functions not only as a sector-specific regulatory tool, but as a comprehensive legal framework that redefines the interactions among the state, the market, and society. The Job Creation Law in the mineral and coal mining industry intensifies the centralisation of authority created by the Mining Act 2020, while also transforming public participation from a deliberative tokenism model to a more instrumental approach.

These alterations are occurring within the framework of a multifaceted crises, including the global economic deceleration, foreign investment pressures, and the national discourse on employment generation and expedited development. In this context, public participation is now regarded not as a normative deliberative process for shaping policy, but as an administrative factor that must be controlled to avoid obstructing corporate efficiency and certainty. This transition has significant ramifications for the democratic legitimacy of mining governance. The omnibus legislative methodology employed in the Job Creation legislative has significant implications for public participation. The legislative process, which amalgamates several laws into a one legal instrument, complicates the public's ability to discern viable areas for involvement. The intricacy of the content and the rapidity of discussions establish an epistemic gap between legislators and the populace.

The Constitutional Court, in Decision Number 91/PUU-XVII/2020, recognised procedural deficiencies in the formulation of the Job Creation Law, namely concerning the adherence to the norm of substantive public involvement. The Court contended that public involvement necessitates the right to access sufficient information, the chance to articulate viewpoints, and the assurance that such viewpoints be evaluated judiciously.[44] Nevertheless, the government's response to this ruling was adherence to formalities, without a meaningful overhaul of the participation process. From a substantive-procedural standpoint, analysed through Arnstein's framework of participation, the Job Creation Law regime illustrates a transition from consultation to enhanced information dissemination. The public can acquire information via online publishing, regulatory, and administrative complaint mechanisms. Nonetheless, the scope for meaningful discussion is constricted, and the public's ability to affect policy results is progressively diminished. Participation serves as a unilateral information dissemination process intended to promote adherence, rather than as a platform for policy deliberation.

44 Constitutional Court of the Republic of Indonesia, Decision Number 91/PUU-XVIII/2020 (Judicial Review of the Job Creation Law), 25 November 2021, which declared Law No. 11 of 2020 conditionally unconstitutional due to lack of "meaningful participation". This was followed by the issuance of Government Regulation in Lieu of Law (Perppu) No. 2 of 2022, subsequently enacted as Law No. 6 of 2023. Most recently, the Court in Decision Number 168/PUU-XXI/2023 (31 October 2024) partially granted a petition by labor unions, nullifying 21 provisions regarding labor rights and mandating the creation of a separate Manpower Law within two years.

A notable transformation in the mining sector subsequent to the Job Creation Law is the consolidation of permits via the risk-based business licensing system (OSS RBA). This alteration redirects supervision from the pre-permit phase to the post-permit phase, resulting in diminished public participation throughout the early planning and decision-making processes. The removal or reduction of various public consultation mandates in the permitting process undermines the standing of impacted communities. In this instance, public participation is limited to the submission of objections or complaints post-permit issuance. This process positions communities reactively rather than proactively. This scenario aligns with Arnstein's therapeutic ladder of involvement, wherein engagement serves to alleviate social opposition without exerting genuine impact on policy.

Moreover, the Job Creation Law framework redefines the function of Environmental Impact Assessments (AMDAL) as a cohesive administrative tool within business licensing, influencing the quality of engagement. In this context, the environmental consultation process, formerly a forum for discourse, now operates primarily as a technical requirement. Communities operate under the confines of the administrative structure, without access to strategic decision-making about project viability. The Job Creation Law further consolidates authorities in mining management, encompassing standard-setting, permit issuing, and oversight. Local governments operate as executors of central policies, with progressively constrained discretionary authority. This circumstance directly affects local community engagement, which depends on local government representation.

This topic has led to many court assessments of the Job Creation Law, revealing the limitations of legal remedies over the erosion of public participation. The Constitutional Court often confines its function to procedural evaluations and affords legislators considerable latitude. This approach highlights that public participation in the Indonesian judicial system has not been established as a fundamental constitutional right. This trend indicates that the judicial review system has failed to enhance public participation to the status of citizen authority. Participation continues to be regarded as an administrative variable that may be modified to align with economic policy objectives. The legitimacy of mining policy has transitioned from democratic to functional validity.

The research indicates that the Job Creation Law regime exemplifies the use of public participation. Participation is not abolished but restructured to conform to the objectives of efficiency, legal clarity, and investment competitiveness. The public is regarded as an entity of restricted socialisation and supervision, rather than a participant in policy discourse. This instrumentalisation engenders a democratic dilemma in the administration of natural resources. The state professes a dedication to participation yet effectively constrains the public's area of influence. This regime on Arnstein's Ladder transitions from deliberative tokenism to administrative tokenism.

An analysis of the Mining Act 2020 and the Job Creation Law indicates a decline in the quality of public participation. The initial regime solidified participation via deliberative tokenism, but the subsequent regime diminished it to a mere administrative tool. This transformation is deliberate, resulting from a legal political orientation that emphasises investment stability and the centralisation of authority. This reading establishes a crucial basis for the normative synthesis in the subsequent section. A comparative examination of the regimes facilitates critical reflection on the limitations of public participation in Indonesian mining law and the associated constitutional problems.

4. Regime of Law Number 2 of 2025 Concerning the Fourth Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining (Mining Act 2025)

The discourse over the adequacy of public involvement in Indonesian mining legislation is inextricably linked to the normative framework that has been progressively shaped by revisions to the Mineral and Coal Law. The Mining Act 2025 regime exemplifies the conclusion of a policy trajectory that progressively emphasises state supremacy and the rationale of economic growth in the management of mineral and coal resources. Moreover, enquiries about the adequateness of public participation are beyond mere technical procedures, now addressing fundamental issues of constitutionalism, substantive democracy, and the legitimacy of state authority in the management of natural resources. Public participation in contemporary legislation is conventionally perceived not just as a consultative tool, but as an embodiment of the idea of popular sovereignty and the accountability of authority. This principle, within the framework of Indonesian constitutional law, is founded on Article 1 paragraph (2) of the 1945 Constitution and is manifested through the assurance of the right to a good and healthy environment, the right to access information, and the right to engage in public decision-making (Article 28H of the 1945 Constitution). Consequently, the effectiveness of public participation should be evaluated not just by its formal presence, but by its ability to impact policy content and mitigate the misuse of authority.

The Mining Act 2025 regime signifies a substantial conceptual transformation in the comprehension of public participation. Participation is often relegated to a supplementary administrative tool rather than being seen as a fundamental component of mining policy legitimacy. Regulations concerning community engagement are situated within the context of expediting licensing, securing investment, and adapting national strategic policies. Consequently, public participation is now perceived not as an independent right, but as a negotiable element within the context of developmental objectives.

A primary feature of the Mining Act 2025 is the further consolidation of centralised control over mining licenses and administration. This alteration solidifies a pattern that has arisen following the second and third amendments to the Mineral and Coal Mining Law, wherein the central government has a pivotal role in delineating mining business permission regions, issuing licenses, and supervising business operations. Normative reasons supporting this centralisation typically hinge on assertions of enhanced legal clarity, mitigation of local corrupt practices, and the harmonisation of national policy. From the standpoint of constitutional and administrative law, this centralisation prompts essential enquiries about the principles of decentralisation, regional autonomy, and the closeness of decision-making to impacted populations.

In the 2025 regime, the state functions not just as a regulator, but progressively as a *manager* and even a collaborator in mining operations. The enhancement of state-owned enterprises (SOEs) and state-affiliated corporate organisations in the administration of strategic mineral resources signifies a transition from the regulatory state model to the modern developmental state. This transition has normative consequences for the notion of governmental authority over natural resources as outlined in Article 33 of the 1945 Constitution. Previously, state control was viewed as a mechanism for regulation, management, and oversight aimed at maximising public welfare; however, under this regime, it is increasingly perceived in operational and instrumental terms, emphasising the optimisation of economic value and the state's negotiating power in the global market.

Nonetheless, enhancing the state's participation does not inherently result in the fortification of public accountability systems. Conversely, a primary critique of the Mining Act 2025 is the progressively limiting scope for substantive public participation. Although it legally acknowledges the significance of public consultation and participation, its stipulations are often procedurally insufficient and lack methods for substantial impact on decision-making. Public participation has been diminished to a mere administrative procedure, rather than a deliberate process capable of impacting the substance of mining policy.

The 2025 regime exhibits both continuity and amplification of trends established in prior changes. In the prior regime, public participation was diminished by the streamlining of licensing processes and the amalgamation of environmental licenses with corporate permits; in the 2025 regime, this deterioration is institutionalised in a more systematic manner. Participation is now regarded not as a normative need for policy legitimacy, but as a variable that can be modified to accommodate the demands of expedited investment and policy stability.

This strategy has substantial ramifications for populations residing near mining regions. The Mining Act 2025 presumes that national and local interests are congruent, therefore interpreting social and ecological problems as matters of execution rather than as questions of normative design. This assumption is flawed since it overlooks that mining impacts—both environmental and social—are localised, contextual, and frequently cannot be simplified to macroeconomic metrics. From an ecological justice standpoint, this method may exacerbate the disparity in the allocation of risks and rewards between the central government and regional authorities, as well as between the state and impacted populations.

Moreover, the framework established by the Mining Act 2025 has a propensity to institutionalise uniqueness in mining regulation. The mining legislation is shifting towards discretionary governance due to many clauses that provide the central government considerable latitude in formulating strategic goals. Although administrative discretion is essential in a contemporary state, its potential for abuse escalates in the absence of judicial monitoring and robust public participation. In this scenario, the law ceases to act as a constraint on power and instead serves as a mechanism that legitimises the augmentation of executive authority.

From a legal philosophy standpoint, the 2025 regime signifies a transition from a paradigm of legal formalism to what may be termed instrumental legalism. The law is utilised as a mechanism to attain particular policy objectives—specifically, economic growth and resource security—while insufficiently considering the independent normative aspects of the law itself. Consequently, concepts like participation, openness, and accountability diminish in normative significance and are relegated to mere policy buzzwords.

This scenario also prompts significant enquiries over the alignment of the Mining Act 2025 with international environmental and human rights legal norms. Despite Indonesia's stated commitment to many international instruments advocating for public participation and the safeguarding of impacted communities, the execution of these obligations under national mining legislation is significantly insufficient. The 2025 regime, prioritising acceleration and flexibility, may exacerbate the disparity between international obligations and domestic implementation.

Nonetheless, it is crucial to recognise that the framework of the Mining Act 2025 cannot be entirely interpreted as normative retreat. This regime exemplifies an effort to tackle the structural difficulties confronting the Indonesian mining sector, including policy fragmentation, inadequate control, and minimal local added value. The issue is in the normative design decisions used to tackle these difficulties. This system has opted for centralisation and legal instrumentalisation instead of enhancing participatory and rights-based governance.

Consequently, the framework established by the Mining Act 2025 epitomises the culmination of normative trends that have emerged from prior amendments: reinforcing the state's authority, constricting public participation, and subordinating procedural democratic principles to the economic development agenda. This government does not directly oppose the preceding one; instead, it exhibits a progressively clear continuity. The distinction resides in the strength and clarity of its normative focus.

Within this approach, it is crucial to regard the regime of the Mining Act 2025 as a subject of critical assessment, rather than merely a good legal phenomenon. This evaluation should assess whether the consolidation of authority and policy flexibility provided by this regime genuinely conforms to the constitutional mandate of maximising public prosperity, or if it compromises the principles of participation and justice for the sake of immediate efficiency. This inquiry gains significance when examining the escalating socio-ecological conflicts in mining regions and the worldwide desire for sustainable and equitable resource governance.

D. Conclusion

This study illustrates that the evolution of the Mineral and Coal Mining Law in Indonesia embodies the dynamic interplay of state power arrangement, economic development orientation, and the extent of public involvement acknowledgement. The Mining Act 1967, originating from an authoritarian developmental state, and the Mining Act 2025, functioning within the framework of electoral democracy and strategic resource governance, exhibit considerable normative transformations in public participation, though they remain substantively problematic. An analysis utilising Arnstein's Ladder of Citizen Participation indicates that the alteration in the mining legal framework has not yet culminated in a substantial enhancement of participatory quality. Despite the implementation of post-reform rules that established procedures for consultation, outreach, and community engagement, the decision-making framework continues to exhibit the predominance of the state and influential economic stakeholders. Public participation often culminates in tokenism, when public voices are acknowledged procedurally without ensuring substantial impact on policy results.

The Mining Act 2025 framework epitomises these tendencies. The centralisation of authority, the enhancement of administrative discretion, and the streamlining of licensing procedures generate significant conflicts with the notion of popular sovereignty and individuals' constitutional rights to engage in natural resource management. This circumstance poses a constitutional challenge to the interpretation of Article 33 of the 1945 Constitution as a principle of economic democracy and social fairness. Consequently, forthcoming improvements to mining legislation necessitate the reestablishment of public participation as a fundamental component of democratic resource control, rather than solely as a tool for policy legitimacy. In the absence of normative reforms, mining legislation is likely to perpetuate power disparities in the management of natural resources.