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INTERGENERATIONAL JUSTICE IN NATURAL RESOURCE MANAGEMENT: A LEGAL REVIEW OF EXCESSIVE MINING EXPLOITATION

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ABSTRACT

Natural resource management in Indonesia faces a fundamental challenge because mining exploitation remains strongly influenced by an extractive development orientation that prioritizes short-term economic interests. Excessive exploitation of non-renewable resources not only causes ecological degradation but also threatens the availability, quality, and accessibility of natural resources for future generations, thereby raising concerns of intergenerational justice. This study aims to analyze the legal construction of mining exploitation restrictions from the perspective of intergenerational justice and to evaluate the capacity of Indonesian positive law to protect the ecological rights of future generations. This research employs a normative juridical method. The results show that the constitutional principles of state control, sustainability, and environmental awareness provide a legal basis for restricting mining exploitation when extraction threatens long-term ecological interests. Current mining regulations nevertheless reveal legal ambivalence because sustainability and environmental protection obligations coexist with licensing simplification, centralized authority, and an extractive development orientation. Existing preventive instruments have not established clear limits on the depletion of non-renewable mineral and coal resources. The principle of intergenerational equity therefore requires state control over natural resources to extend beyond present-generation interests by safeguarding resource options, environmental quality, and access for future generations. Strategic resource reserves can function as a preventive legal mechanism by designating certain mineral and coal reserves that cannot be exploited within a specified period. The novelty of this study lies in formulating strategic resource reserves as an operational

legal instrument that connects intergenerational equity with the constitutional function of state control to prevent irreversible resource depletion before extraction occurs.

A. INTRODUCTION

The utilization of natural resources is a key pillar of economic development for many developing countries, including Indonesia. However, an anthropocentric development paradigm oriented toward short-term profits often leads to excessive mining exploitation (*over-exploitation*). This phenomenon not only causes massive ecological damage today but also creates a resource deficit for future generations. In the context of global environmental law, this challenge raises the urgency of implementing the principle *of* intergenerational equity.

The management of natural resources (SDA) in Indonesia is currently at a worrying low point due to a development paradigm that is extractive and oriented towards short-term profits (*short-termism*). As mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. [1]However, in practice, the phrase "the greatest prosperity of the people" is often reduced only to the interests of the current generation*,* thus ignoring the existence and rights of future *generations*.

The principle of intergenerational justice is rooted in the idea that the current generation acts as a trustee *of* the earth for the benefit of future generations. Legally, this concept has been recognized in various international instruments, such as the Stockholm Declaration of 1972 and the Rio Declaration of 1992, which emphasize that the right to development must be fulfilled in such a way as to fairly meet the development and environmental needs of current and future generations [2]. In Indonesia, this spirit of justice is constitutionally enshrined in Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which mandates that the national economy be organized based on economic democracy with sustainable and environmentally conscious principles.[3]

Overexploitation of mining resources *has* become a systemic phenomenon driven by the ambition for economic growth without regard for environmental carrying capacity. Massive mining activities not only leave permanent ecological damage but also deplete natural resources that should provide a livelihood for future generations.[4] This is where the principle of intergenerational equity *becomes* crucial as a moral and legal counterbalance to the state's power to manage natural resources.

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

[2] Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (Tokyo: United Nations University, 1989), 38.

[3] Republic of Indonesia, *1945 Constitution of the Republic of Indonesia*, Article 33 paragraph (4).

[4] Jimly Asshiddiqie, *Green Constitution: Green Nuances of the 1945 Constitution of the Republic of Indonesia*, (Jakarta: Rajawali Pers, 2009), 92.

However, the reality on the ground demonstrates a disconnect between constitutional norms and mining practices. Uncontrolled mining exploitation often ignores environmental carrying capacity and capacity. Major problems arise when mining legal policies favor investment facilitation over comprehensive environmental protection. Regulatory changes through Law No. 3 of 2020 concerning Mineral and Coal Mining and Law No. 6 of 2023 concerning the Enactment of the Job Creation Government Regulation in Lieu of Law (Perppu) have sparked debate regarding the centralization of authority and the potential neglect of future ecological rights for the sake of current economic acceleration.[5] Recent Indonesian legal scholarship likewise emphasizes an active state role in governing land and natural resources so that utilization remains directed toward justice and public welfare.[6]

The concept of intergenerational justice demands that the current generation act as a trustee, obligated to maintain environmental integrity and the availability of natural resources. Edith Brown Weiss, a pioneer in this theory, asserted that each generation receives a natural heritage from the past and must hand it over to the future in at least as good a condition.[7] However, in Indonesia, the existing legal framework from the Mineral and Coal Mining Law to its derivative regulations still tends to provide a red carpet for extractive investments that threaten sustainability.

This overexploitation has resulted in the loss of access to non - *renewable natural resources for future generations*. Legally, this raises questions about the state's responsibility to mitigate extractive impacts. Existing legal instruments are considered inadequate in providing real protection for unborn "legal subjects" (future generations), as the positive legal system tends to be restorative (repairing what has been damaged) rather than anticipatory and preventive in the long term.[8]

The disparity between anthropocentric regulations and ecocentric environmental protection needs creates a legal vacuum for those yet to be born. Legally, environmental legal instruments such as Law No. 32 of 2009 concerning Environmental Protection and Management do incorporate the principle of sustainability, but in its implementation in the mining sector, this principle is often overridden by the pretext of national strategic interests.[9]

The escalation of environmental degradation due to uncontrolled extractive activities confirms the theoretical and practical urgency for a fundamental reevaluation of the legal construction of natural resource management in Indonesia through the paradigm of intergenerational equity. This research positions itself as a discursive effort to reconstruct the

[5] Ahmad Redi, *Mining Law: Basic and Contemporary Concepts* (Jakarta: Sinar Grafika, 2021), p. 112.

[6] Wishnu Rusydianto, "Harmonization of National Land Law with the Principles of Agrarian Justice in the Constitution," *Journal Critical Legal System* 1, no. 1 (2026)

[7] Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity*, (Tokyo: United Nations University, 1989), 38.

[8] Jimly Asshiddiqie, *Green Constitution: Green Nuances of the 1945 Constitution of the Republic of Indonesia* (Jakarta: Rajawali Pers, 2009), 95.

[9] Muhammad Akib, *Environmental Law: Global and National Perspectives*, (Jakarta: Rajawali Pers, 2014), 112.

orientation of national mining policy, so that it is no longer trapped in purely commoditized and short-term economic logic, but rather transforms into a governance system that views agrarian resources as a natural heritage that requires rigid exploitation restrictions to maintain ecosystem resilience.

Recent scholarship has strengthened the legal relevance of intergenerational justice, but it has generally developed through climate litigation and constitutional environmental rights rather than through limits on mineral extraction. Minnerop examines intergenerational equity through constitutional climate obligations, while Sulyok identifies rule-of-law standards that can prevent arbitrary treatment of future generations in environmental and climate litigation. These studies demonstrate that future interests can acquire legal relevance through constitutional interpretation, yet they do not specifically examine how non-renewable mining resources should be limited through sectoral regulation.[1011]

Research on extractive activities also shows a different but related concern. Lo et al. demonstrate that nickel mining in Sulawesi is associated with increased deforestation and mixed community welfare outcomes, whereas Akchurin shows that environmental litigation surrounding mining can expose gaps in licensing and enforcement even when courts do not fully resolve long-term socio-environmental conflict. These studies provide important evidence on the ecological and governance consequences of mining, but their primary concern is empirical impact or litigation rather than the legal construction of intergenerational restrictions on extraction.[1213]

The research gap therefore lies in the absence of a focused normative analysis that connects Indonesian constitutional control over natural resources, mining licensing, preventive environmental instruments, and the doctrine of intergenerational equity in order to determine a legally defensible limit on excessive extraction. This article differs from previous studies by examining whether present mining law treats sustainability as an operational restriction on extraction and by testing the legal basis for preserving a portion of non-renewable resources through strategic resource reserves rather than relying only on reclamation after exploitation has occurred.

Accordingly, this study aims to (1) analyze the legal construction of restrictions on mining exploitation in Indonesia from the perspective of intergenerational justice; and (2) evaluate the extent to which current positive legal instruments protect the ecological rights of future generations

[10] Katalin Sulyok, "Transforming the Rule of Law in Environmental and Climate Litigation: Prohibiting the Arbitrary Treatment of Future Generations," *Transnational Environmental Law* 13, no. 3 (2024): 475–501

[11] Petra Minnerop, "The 'Advance Interference-Like Effect' of Climate Targets: Fundamental Rights, Intergenerational Equity and the German Federal Constitutional Court," *Journal of Environmental Law* 34, no. 1 (2022): 135–162

[12] Maria Akchurin, "Environmental Justice at the Environmental Courts? Mining, Socioenvironmental Conflicts, and Environmental Litigation in Northern Chile," *The Extractive Industries and Society* 15, (2023): 101279

[13] Michaela G. Y. Lo et al., "Nickel Mining Reduced Forest Cover in Indonesia but Had Mixed Outcomes for Well-Being," *One Earth* 7, no. 11 (2024): 2019–2033

from excessive natural resource exploitation, including the legal relevance of strategic resource reserves as a preventive mechanism for preserving non-renewable resources across generations.

B. RESEARCH METHODS

This research uses a normative juridical methodology that views law as a comprehensive system of norms encompassing basic principles, legislation, jurisprudence, and legal doctrine. This approach aims to deeply examine the coherence and internal consistency of mining sector regulations in Indonesia through legal dogmatic analysis, while simultaneously evaluating the extent to which positive law is able to implement the principle of intergenerational justice as mandated by the constitution. Through systematic interpretation, this research also identifies potential disharmony between technical mining regulations and the value of ecological and economic protection for future generations.[14]

As a doctrinal study, this method positions law as *law in books*, emphasizing the truth of normative coherence, rather than empirical facts. This aligns with the view that normative legal research aims to systematically discover legal rules, principles, and doctrines down to their philosophical foundations, and is qualitative-prescriptive in formulating solutions to legal conflicts or gaps.[15] This study uses a legislative, conceptual, and philosophical approach, with legal material collection techniques through literature studies and prescriptive-qualitative analysis to provide normative recommendations regarding restrictions on mining exploitation to ensure sustainability and intergenerational justice.[16]

C. RESULTS AND DISCUSSION

1. Legal Construction of Natural Resource Management: Between Extractive Economy and Constitutional Mandate

The legal construction of natural resource management (SDA) in Indonesia is fundamentally based on Article 33 paragraphs (3) and (4) of the 1945 Constitution of the Republic of Indonesia. Theoretically, the concept of "State Control Rights" (HMN) should be an instrument for the state to limit exploitation for the sake of sustainable public welfare. However, from the perspective of intergenerational justice, there has been a shift in orientation from the state trustee model (the state as guardian) to the state business model (the state as business facilitator).[17] This understanding is consistent with the view that state control over

[14] Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana, 2005).

[15] Ibrahim, Johnny. *Theory and Methodology of Normative Legal Research*. (Malang: Bayumedia Publishing, 2006; Also see, Soekanto, Soerjono, and Sri Mamudji. *Normative Legal Research: A Brief Review*. (Jakarta: Rajawali Pers, 2001).

[16] Sunaryati Hartono, *Methodology of Economic Law Research*. (Bandung: Citra Aditya Bakti, 1994).

[17] Koesnadi Hardjasoemantri, *Environmental Law* (Yogyakarta: Gadjah Mada University Press, 2005), 42.

natural resources must remain directed toward justice and public welfare.[18]

Intergenerational equity demands that each generation not inherit the environmental burdens of current exploitation. Jimly Asshiddiqie emphasized that the Indonesian constitution is essentially a "Green Constitution," in which environmental sovereignty must go hand in hand with economic sovereignty.[19]

Exploitation of natural resources beyond the threshold of sustainability is no longer merely a matter of policy choice, but has transformed into a failure to fulfill the state's constitutional obligations. Dogmatically, restrictions on the extraction of mining commodities are an imperative manifestation of the mandate of Article 33 paragraph (4) of the 1945 Constitution, which outlines the principles of sustainability and environmental awareness. Without a rigid limiting instrument, current mining practices will be trapped in the phenomenon of intergenerational injustice, where there is a systemic confiscation of property rights and accessibility of resources that should be passed on to future generations.

Therefore, a regulatory reorientation is urgently needed to integrate the doctrine of intergenerational equity into positive legal norms. This aims to prevent irreversible resource depletion, which legally qualifies as a violation of future citizens' constitutional rights due to the short-term economic preferences of the current generation. The central legal issue is therefore not whether mining may continue, but whether the state may authorize present extraction at a scale that materially reduces the options, environmental quality, and resource access of future generations. When Article 33 paragraph (4) is read together with the state-control mandate, sustainability operates as a legal limitation on the exercise of control, not merely as a policy aspiration. The legitimacy of mining permits consequently depends on whether licensing decisions can be justified within long-term ecological limits.

The massive exploitation of natural resources in Indonesia, as legitimized in Law No. 3 of 2020 (Minerba Law) and Law No. 6 of 2023 (Job Creation Law), reflects the strong influence of the contemporary anthropocentric paradigm in national legal policy. Legally, these regulations place greater emphasis on the utilization of natural resources as economic commodities to meet the needs of current legal subjects (present generation). This creates normative tension with the principle of Green Constitutionalism mandated in Article 33 paragraph (4) of the 1945 Constitution. This legal construction tends to ignore the essence of intergenerational justice because it prioritizes ease of investment and acceleration of extraction through simplification of licensing procedures.[20] The tension is normative: investment facilitation can be constitutionally

[18] Wishnu Rusydianto, "Harmonization of National Land Law with the Principles of Agrarian Justice in the Constitution," *Journal Critical Legal System* 1, no. 1 (2026)

[19] Jimly Asshiddiqie, *Green Constitution: Green Nuances of the 1945 Constitution of the Republic of Indonesia* (Jakarta: Rajawali Pers, 2009), 121.

[20] Ahmad Redi, *Mining Law: Basic and Contemporary Concepts* (Jakarta: Sinar Grafika, 2021), 145.

acceptable only when it remains subordinate to sustainability and environmental protection. A licensing model that accelerates extraction but does not define a threshold for resource depletion risks converting the state-control function into a mechanism for present consumption of assets that constitutionally belong to the broader public across time.

As a result, preventive legal instruments such as the Environmental Impact Assessment (EIA) are often reduced to mere administrative formalities in pursuit of gross economic growth targets. A development orientation biased toward current interests risks leaving a legacy of irreversible ecological degradation, which directly harms the ecological rights of future generations. [21]From a theoretical perspective, legal policies that focus too much on exploitation without rigid limitations have neglected the role of the state as a trustee of national natural resources. The law should act as a constraint on economic greed to ensure that the use of natural resources not only provides prosperity for the current community but also guarantees accessibility and sustainability for future generations [22]. Without a policy reorientation toward a more anticipatory system, national economic ambitions will continue to clash with the ideals of environmental sustainability guaranteed by the constitution.[23] For that reason, EIA should be assessed not only by whether a project satisfies administrative documentation requirements, but by whether it provides a credible basis for refusing or limiting extraction when cumulative ecological effects threaten irreversible loss. Preventive instruments lose their constitutional function when they merely accompany approval rather than determine whether approval should be granted.

Legal ambivalence arises when legal instruments facilitate licensing (through the Risk-Based Approach) that potentially reduce environmental carrying capacity and capacity standards. From an environmental law perspective, this disregard for ecological boundaries constitutes a denial of citizens' constitutional rights to a good and healthy environment, which are inherent and transcend generations.[24] The legal ambivalence is therefore visible in the asymmetry between rules that enable extraction and rules that restrain depletion. Intergenerational justice requires the latter to have equivalent legal force, because future generations cannot correct an irreversible decision once non-renewable reserves have been exhausted or ecological systems have crossed recovery thresholds.

A comprehensive analysis of the legal discourse in Law Number 3 of 2020 (Minerba Law) and Law Number 6 of 2023 (Job Creation Law)

[21] Jimly Asshiddiqie, *Green Constitution: Green Nuances of the 1945 Constitution of the Republic of Indonesia* (Jakarta: Rajawali Pers, 2009), 95.

[22] Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (Tokyo: United Nations University, 1989), 38.

[23] Muhammad Akib, *Environmental Law: Global and National Perspectives* (Jakarta: Rajawali Pers, 2014), 178.

[24] Jimly Asshiddiqie, *Green Constitution: Green Nuances of the 1945 Constitution of the Republic of Indonesia*, (Jakarta: Rajawali Pers, 2009), 112.

reveals a fundamental legal ambivalence within the political structure of natural resource law in Indonesia. Normatively, both regulations incorporate mandatory reclamation and post-mining activities as instruments to mitigate ecological damage. However, these protective norms face internal contradictions due to the acceleration of deregulation and the overly expansive simplification of the mining licensing bureaucracy. The current legal regime tends to adopt a development paradigm that emphasizes ease of investment and administrative efficiency, which often implicitly neglects environmental carrying capacity. The existence of reclamation and post-mining obligations does not by itself resolve this contradiction because those obligations address the condition of land after extraction, while intergenerational equity also concerns whether the mineral resource itself should be fully extracted in the first place. The relevant distinction is between repairing mining impacts and preventing depletion that cannot be reversed by reclamation.

This anomaly creates a disconnect between the rhetoric of environmental protection and the reality of policy implementation. Liberalizing licensing procedures through a risk-based approach in the Job Creation Law has the potential to reduce the strictness of environmental compliance oversight, so that reclamation obligations are viewed merely as a procedural formality rather than a substantial ecological responsibility. The imbalance between economic incentives for mining corporations and the enforcement of strict environmental standards indicates a shift in values from green constitutionalism to economic pragmatism. Therefore, synchronizing positive law requires a philosophical reorientation so that the principle of sustainability is not merely a regulatory ornament but rather an operational foundation for limiting the exploitation of natural resources to guarantee citizens' constitutional rights to a good and healthy environment. Accordingly, legal synchronization should be directed toward establishing a hierarchy in which sustainability and carrying-capacity considerations condition licensing decisions from the outset. Administrative efficiency cannot function as an independent justification for reducing environmental scrutiny because the constitutional object of natural resource management is public prosperity that extends beyond immediate fiscal or investment gains.

The shift in licensing authority from regional to central government is seen as reducing social and environmental control at the local level. According to Bagir Manan, regional autonomy in natural resource management should serve as a bulwark against environmental degradation, as local communities are most impacted by ecological degradation.[25] The constitutional problem does not arise from centralization by itself, but from whether centralization weakens access to local ecological information and meaningful oversight. A centralized

[25] Bagir Manan, *Welcoming the Dawn of Regional Autonomy* (Yogyakarta: Center for Legal Studies, Faculty of Law, UII, 2001), 89.

licensing structure can only be justified when it preserves or strengthens the ability to identify cumulative environmental burdens, affected community interests, and long-term resource limits. If those safeguards decline, the transfer of authority creates a greater distance between the decision-maker and the ecological consequences of the decision.

Although the Environmental Impact Assessment (EIA) instrument exists, in practice it is often considered a mere administrative formality. Over-exploitation occurs because our regulations do not yet recognize national production quota limits based on strategic reserves for the future.[26] This weakness supports the argument for a preventive instrument that operates before extraction occurs. A strategic reserve differs from reclamation, compensation, or restoration because it protects the existence of the resource itself. Its legal function is to establish a non-extraction boundary based on sustainability, scientific assessment, and intergenerational responsibility, thereby giving operational content to constitutional commitments that otherwise remain general.

2. Protection of the Ecological Rights of Future Generations through Intergenerational Equity and Strategic Resource Reserves

A fundamental critique of the positive legal architecture in Indonesia is rooted in its inherent anthropocentric-contemporary paradigm. Doctrinally, this orientation places humans as the center of gravity of the law, whereby legal protection and recognition of legal subjects are temporally limited to individuals or corporations existing in the present. This paradigm has implications for reducing the function of law to merely an instrument for satisfying the needs of the present generation, often ignoring long-term negative externalities that undermine ecological stability. As a result, the law often fails to anticipate the impacts of natural resource exploitation that exceeds the environment's carrying capacity, because existing normative constructions do not rigidly recognize the rights of entities that are not yet physically present in sociological reality.[27]

From a progressive constitutional law perspective, there is an urgency to question the extent to which national legal instruments are capable of extending their scope of protection to groups discursively referred to as "unborn generations." Protecting their interests is no longer merely a matter of morality, but rather a legal obligation stemming from the doctrine of intergenerational equity. The law is challenged to transform abstract norms of environmental justice into concrete mechanisms, such as restrictions on mining production quotas and environmental endowments, to ensure that public ownership of

[26] Ahmad Redi, *Mining Law: Basic and Contemporary Concepts* (Jakarta: Sinar Grafika, 2021), 145.

[27] Jimly Asshiddiqie, *Green Constitution: Green Nuances of the 1945 Constitution of the Republic of Indonesia,* (Jakarta: Rajawali Pers, 2009), 92.

natural resources is not eroded by current pragmatic interests.[28] Without a shift from anthropocentrism to a timeless ecocentrism, the law will only serve as a legitimacy for the "theft" of future ecological rights for the sake of short-term economic growth.[29]

Edith Brown Weiss proposed three key principles of intergenerational justice: conservation of options (maintaining natural resource diversity), conservation of quality (maintaining environmental quality), and conservation of access (ensuring equitable access to the earth's heritage).[30] The implementation of the doctrine of protecting the rights of future generations within Indonesia's current positive legal framework is considered to be trapped in a symbolic, normative abstraction without any rigid operationalization. Although the principle of sustainability has been constitutionally recognized, the derivation of this norm into sectoral laws, particularly within the mining legal regime, still shows a lack of preventive-intergenerational protection mechanisms. Legally, there is an urgent need to reorient the paradigm by establishing a "strategic resource reserves" instrument as a progressive legal breakthrough.[31] This instrument is not merely a technical management policy, but rather a legal restriction that establishes the status quo for certain natural resources so that they cannot be exploited by the current generation.

The establishment of strategic reserves serves as a boundary for state sovereignty in allocating natural resources, ensuring that contemporary economic claims do not negate the right to life and the right to a healthy environment for future citizens.[32] By strengthening the legal status of these reserves regulated with protection standards equivalent to absolute conservation areas the state carries out its function as trustee of publicly owned natural resources. This step is essential to mitigate the risk of irreversible resource depletion, which can be doctrinally classified as a violation of the state's obligation to maintain ecological balance across time. Thus, the law no longer functions merely as a tool for legitimizing exploitation, but as a guardian of moral and juridical boundaries that guarantee distributive justice between generations.[33]

Without rigid production limits and strengthened sanctions against permanent ecological damage, Indonesia's current legal instruments are far from ideal in accommodating future ecological rights. The country

[28] Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity,* (Tokyo: United Nations University, 1989), 38.

[29] Peter Mahmud Marzuki, *Introduction to Legal Science: Revised Edition*, (Jakarta: Kencana, 2008), 154.

[30] Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (Tokyo: United Nations University, 1989), 40-45.

[31] Koesnadi Hardjasoemantri, *Environmental Law, Eighth Edition*, (Yogyakarta: Gadjah Mada University Press, 2005), 62.

[32] Satjipto Rahardjo, *Legal Science*, (Bandung: Citra Aditya Bakti, 2000), 143.

[33] Bagir Manan, *Legislative Politics in the Context of Welcoming the Free Trade Era*, (Jakarta: FH-UI Press, 1996), 21.

tends to fall into a resource curse, where natural resources are depleted, leaving no ecological capital for future generations.[34]

Intergenerational equity demands that the present generation act as trustees of publicly owned natural resources. Doctrinally, this principle has three main pillars: conservation of options, conservation of quality, and conservation of access.[35] Analysis of overexploitation of mining indicates a serious threat to "conservation of options," where irreversible depletion of mineral reserves would deprive future generations of the opportunity to determine their own economic and ecological destiny.

From a normative legal perspective, law should not merely recognize the rights of existing legal subjects. There needs to be a discursive expansion of legal subjects to encompass "unborn generations." Their protection must be incorporated into positive legal norms through more rigid instruments to prevent what is philosophically referred to as the "theft" of property rights across generations by contemporary economic pragmatism.[36]

To address this regulatory imbalance, a legal breakthrough is needed in the form of codifying "Strategic Resource Reserves" into Indonesian positive law. This instrument is not merely a technical mining policy, but rather a legal restriction that prohibits the exploitation of certain zones or volumes for the benefit of the future. Theoretically, this step embodies the state's regulatory function in restricting private and corporate rights to ensure the availability of natural resources for future generations. This codification should be positioned as an imperative, closing norm, in which the state explicitly stipulates a certain percentage of mineral and coal deposits that must be inviolable for a specified period.[37]

The implementation of strategic reserves serves as a national ecological and economic "anchor of security." From the perspective of international environmental law, this concept aligns with the precautionary principle, which requires preventive action even when there is no imminent threat of scarcity. [38]By integrating strategic reserves into the legal system, Indonesia can shift from a "zero-sum extraction" mindset to a "future asset management" mindset. This will also strengthen the country's bargaining position in resource sovereignty, as the availability of legally guaranteed reserves provides resilience to global market fluctuations and ensures the fulfillment of the ecological rights of the nation's children and grandchildren. [39]Ultimately, these legal

[34] Emil Salim, *Sustainable Development: Adaptation and Mitigation Strategies* (Jakarta: Gramedia Popular Library, 2010), 76.

[35] Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity*, (Tokyo: United Nations University, 1989), 45.

[36] Peter Mahmud Marzuki, *Legal Research: Revised Edition*, (Jakarta: Kencana, 2005), 178.

[37] Ahmad Redi, *Mining Law: Basic and Contemporary Concepts* (Jakarta: Sinar Grafika, 2021), 162.

[38] Siti Sundari Rangkuti, *Environmental Law and National Environmental Policy* (Surabaya: Airlangga University Press, 2005), 188.

[39] Bagir Manan, *Natural Resource Legal Politics* (Jakarta: FHUI Press, 2009), 54.

restrictions will serve as concrete evidence of Indonesia's commitment to operationalizing the principle of intergenerational justice, transforming it from mere philosophical discourse into a legally binding and applicable force.[40]

The establishment of strategic reserves is a manifestation of the Public Trust Doctrine, under which the state has a legal obligation to preserve natural resources for the public interest across time. By establishing boundaries that cannot be negotiated by short-term investment interests, the law fulfills its protective function in a preventative manner. This step is essential for transforming the principle of intergenerational justice from a mere abstract concept into a legally binding operational norm.[41]

D. CONCLUSION

The legal construction of mining exploitation restrictions in Indonesia shows that the constitutional principles of state control, sustainability, and environmental awareness provide a normative basis for limiting extraction when present utilization threatens the ecological quality, resource options, and access of future generations. Current positive law already contains reclamation, post-mining, environmental assessment, and sustainability obligations, but these instruments have not yet formed a preventive intergenerational limitation because they operate alongside licensing simplification, centralized authority, and the absence of a clear legal threshold for depletion of non-renewable resources. Consequently, the protection of future generations cannot rely only on restoration after mining has occurred. Intergenerational equity requires the state-control function to operate before extraction through legally enforceable limits that preserve part of the resource base. Within the framework examined in this study, strategic resource reserves constitute a legally relevant preventive mechanism because they translate the constitutional mandate of sustainability into a defined restriction on the exploitation of selected mineral and coal reserves for the benefit of future generations. Thus, the essential finding is that Indonesian law has a constitutional foundation for intergenerational protection, but its sectoral mining instruments require stronger operational limits on extraction to make that protection effective.

[40] Edith Brown Weiss, *In Fairness to Future Generations: International Law, Common Patrimony, and Intergenerational Equity* (Tokyo: United Nations University, 1989), 45.

[41] Koesnadi Hardjasoemantri, *Environmental Law*, (Yogyakarta: Gadjah Mada University Press, 2005), 89.

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