

## PHILOSOPHICAL, JURIDICAL, AND SOCIOLOGICAL ASPECTS OF WELFARE OF THE COMMUNITY LIVING AROUND THE OLD OIL WELL MINE

**Indah Febriani**

*Doctoral Candidate in Legal Sciences at the Faculty of Law of the University of Brawijaya*  
ORCID: 0000-0002-5418-3442

**Racmad Safa'at**

*Professor in the field of Agrarian Law and Natural Resources at the Faculty of Law of the University of Brawijaya*  
ORCID: 0000-0001-5246-4171

**Istislam**

*Associate Professor in the field of state administrative law at the Faculty of Law of the University of Brawijaya*  
ORCID: 0009-0003-3855-7656

**Indah Dwi Qurbani**

*Associate Professor in the field of Constitutional law at the Faculty of Law of the University of Brawijaya*  
ORCID: 0000-0002-0153-5985

The mining community in Musi Banyuasin District shows that the 1945 Constitution's mandate to ensure prosperity for its people has not been fully realized. This indicates ongoing issues in the implementation of oil and gas regulations. Using a socio-legal approach, it shows that philosophically, challenges in the sector have resulted in the underutilization of old wells, limiting community welfare around mining areas. Legally, the absence of specific mandates to uplift nearby residents creates legal gaps. Sociologically, current old-well policies still fail to secure the welfare of those most affected.

*Keywords:* welfare, community, mining, oil

**Introduction.** Indonesia is known for its rich natural resources, with petroleum being a key contributor to national income, serving as a crucial energy source supporting various economic and social sectors [1, p. 190–210], and should be used rationally, considering that petroleum is one of the natural resources that cannot be renewed [2, p. 1–11]. Musi Banyuasin District (MUBA) is one of the regencies in South Sumatra Province, recognized as the largest petroleum-producing area in the region, with an average output of approximately 30,000 barrels per day. This substantial production makes MUBA the backbone of the energy sector [3]. Oil extraction in several villages within MUBA has been carried out since the Dutch colonial era. Over time, leaving numerous old oil wells abandoned. The widespread distribution of these wells has encouraged local communities to exploit them independently, providing a relatively

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lucrative source of income. These independent mining practices have been taking place since the 1980s [4, p. 65–73].

Observations in Babat Toman, Batanghari Leko, and Bayung Lencir Subdistricts, show that local residents, especially those living near mining sites, use traditional methods to drill wells and extract crude oil. This practice has become particularly appealing to the community because it allows them to independently obtain crude oil, often called "black gold," without relying on legal processes. As a result, they can sell the extracted oil directly at market prices. This illegal drilling activity has thus remained a key source of income for people living near the mining areas in this region [5, p. 59–72].

The extraction of petroleum from old oil wells is regulated by the Minister of Energy and Mineral Resources Regulation No. 1 of 2008 [6], which sets guidelines for revitalizing wells with remaining production potential to improve community welfare. It mandates that contractors handle the extraction, but if they stop, Regionally Owned Enterprises or Village Unit Cooperatives can take over, with ministerial approval. This regulation shows how local communities can legally manage old oil wells, as long as they follow the licensing requirements.

Community participation in petroleum mining activities demonstrates the deep-rooted connection between Indonesians and their natural resources. It embodies the constitutional rights guaranteed in Art. 33 (3) of the 1945 Constitution [7], which asserts that natural resources are controlled by the state and used for the benefit of the people. This principle highlights the role of the state in ensuring that natural resources contribute to the welfare and prosperity of the nation's citizens.

The phrase the greatest prosperity of the people is interpreted as all natural resources contained in the land of Indonesia are the rights of the people controlled by the state, and their utilization and management must be maximally pursued for the welfare and prosperity of the people, as stated in the Constitution [8, p. 115–121]. In addition, from the perspective of social justice, which is one of the basic values in Pancasila, people have the right to get a fair benefit from the natural resources around them [9, p. 55–62]. However, in practice, the regulation of mining activities in old oil wells, as stated above, has not been able to achieve the goal of improving the welfare of the community, especially the community around the mine.

Poverty remains high in communities around the old oil wells in MUBA, which ranks third in South Sumatra for poverty, with 105.38 thousand people affected (2023-2024 data from the Central Statistics Agency [10]). This is notable despite MUBA being a significant oil and gas producer [8, p. 115–121].

The condition of communities near old oil wells shows that the Constitution's mandate to manage natural resources for the nation's welfare has not been fully realized. Issues with enforcing regulations like Ministerial Regulation No. 1 of 2008 highlight gaps in legal frameworks and limited social impact on local well-being [11, pp. 88–97].

This research used a social-legal method with a legal and social science approach. The socio-legal is an alternative approach that tests the doctrinal study of law, presenting an interface with a context within the law [12, p. 78]. The paradigm used in this study was the post-positivism paradigm known as the interpretative and constructive paradigm, a paradigm that sees a social reality as a whole, or in other words, a social reality that is seen as holistic or comprehensive, complex, dynamic, full of meaning, and the relationship of symptoms is interactive [13, pp. 23].

**Literature review.** Several previous studies have shown that the management of old oil wells in Indonesia has the potential to improve the welfare of local communities. However, implementation challenges have been identified. For example, research by Karjoko et al. found that regulations concerning old oil wells are inadequate in accommodating community participation and ensuring the fair distribution of benefits [14, pp. 286-303]. Furthermore, a study by Triastuti & Gunawati (2025) revealed that community perceptions regarding the fulfillment of socio-economic rights through the management of old oil wells depend on the level

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of involvement; those who are included feel somewhat fair, while those who are excluded feel disadvantaged [15, pp. 1-8]. Thus, the literature highlights a gap between the ideal regulations, such as Law No. 22/2001 on Oil and Gas concerning drilling, production, processing, transportation, storage, and trade activities, and the realities on the ground, where the welfare of communities in old oil well management has not been fully achieved. Therefore, further research from philosophical, juridical, and sociological perspectives is needed as a new approach to realizing community welfare.

**The purpose of the study** is to evaluate the implementation of laws and regulations in the oil and gas sector concerning community welfare in Musi Banyuasin Regency's mining area. It seeks to identify and analyze philosophical, legal, and sociological issues that hinder the optimal exploitation of old oil wells for improving the welfare of surrounding communities. Additionally, the research assesses whether current legal frameworks effectively protect and ensure the welfare of these communities, and provides policy recommendations to align oil mining activities, particularly in old wells, to enhance local community welfare.

#### **Results of the study**

##### ***Philosophical Aspects of the Welfare of the Mining Ring Community in the Mining of Old Oil Wells***

In Indonesia, this welfare is outlined in the 1945 Constitution, particularly in the national economy articles [16, pp. 1–16]. The general welfare differs from individual welfare because the state lacks the legitimacy and capacity to address personal welfare. If it does, it becomes totalitarian, controlling all citizens' lives [17, pp. 203–210]. In other words, it can be stated that the power of the state is limited to the area of general welfare only.

General welfare functions as a means through which individuals can pursue their own well-being. According to the doctrinal view, it encompasses all facilities and resources that must be provided by the state, enabling every citizen to utilize them in achieving personal welfare [18, pp. 139–151]. Therefore, the existence of the state is considered to be subsidiary [19, p. 47], meaning that the state must help in the form of providing public facilities that can be used by its citizens to achieve their respective goals. The assistance that must be provided by the state is called general welfare, the scope of which is as follows:

1. The state must provide protection to the population against threats from outside and within the country, as well as protection against the threat of disease and dangers in the field of traffic.
2. The state provides various services in social, economic, and cultural sectors, including healthcare, education, infrastructure, communication facilities, media, and support for cultural institutions to reduce poverty and economic dependence.
3. The state becomes an impartial arbiter between parties to conflicts in society, namely in the form of providing judicial institutions, including law enforcement institutions [20, pp. 1–10].

State assistance is reflected in the creation of laws and regulations, guiding the state's efforts to achieve its goal of community welfare, which serves as the philosophical basis for all laws, including those in oil and gas mining.

Based on the Appendix No. 2 of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations in conjunction with Law No. 15 of 2019 concerning Amendments to Law No. 12 of 2011 concerning the Establishment of Laws and Regulations in conjunction with Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Formation of Laws and Regulations [18], The philosophical foundation is the reasoning that regulations are created based on life views, consciousness, and the realization of legal ideals, reflecting the spiritual and philosophical values of the Indonesian nation derived from Pancasila and the Constitution's Preamble. Policy formulation in the mining sector, including the management of old oil wells in the Minister of Home Affairs Regulation No. 1 of 2008, seeks to implement Pancasila's principles and fulfill constitutional mandates.

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Pancasila has a very important role in the realization of the welfare of Indonesian citizens. As the state ideology and the nation's outlook on life, Pancasila must be a guide for policy directions, including policies in the field of social welfare. In other words, every policy related to social welfare must be based on or in accordance with the five principles of Pancasila [21, pp. 222–231]. The values underlying Pancasila are noble values that the Indonesian people have upheld since ancient times. Therefore, the meaning of these noble values is contained in the five principles of Pancasila, which include:

1. Divinity (Religiosity). Religious values represent the relationship between individuals and a transcendent entity believed to possess sacred, holy, majestic, and noble power that surpasses human capacity.
2. Humanity (Morality). Fair and civilized humanity is the principle that underlies human awareness of order as one of the foundations of life. Civilized people are naturally more open to accepting the truth sincerely and are capable of following the orderly procedures and patterns of community life, including understanding universal laws. Such awareness forms the basis for nurturing a harmonious relationship between society and the universe in the pursuit of happiness, which can be manifested through attitudes of harmony, tolerance, and peace.
3. Unity (Nationality). Unity is a blend of diverse elements. In the context of Indonesia, it aims to foster unity among all ethnic groups from Sabang to Merauke, rather than conflict. Indonesia's unity is a necessity, not a narrow viewpoint. It stems from a historical struggle, where diversity strengthens national unity, not division.
4. Deliberation and Representation. Humans are social beings who require interaction with others, living together in harmony. These interactions lead to agreements and mutual respect based on shared goals and interests. Such principles give rise to democracy, which serves as the foundation for revitalizing Indonesia, promoting self-control, resilience, and progress in the modern world.
5. Social Justice. Justice ensures certainty and fairness, free from bias, promoting balance and equality. Social justice is a national goal for Indonesia, aiming to create a unified society where all citizens have equal opportunities to grow and thrive. Efforts should focus on developing potential, strengthening character, and enhancing the quality of life for shared prosperity [22, pp. 670–674].

The five principles of Pancasila provide the foundation for Indonesia's nationhood, aiming to create a prosperous, just, and equitable society. One key principle is social justice, emphasizing equal distribution of welfare and justice in various sectors like the economy, education, health, and human rights. This principle underpins social welfare policies, with the state responsible for ensuring citizens' well-being. In relation to Ministerial Regulation No. 1 of 2008 on old oil well mining, it reflects efforts to achieve community welfare, especially for those near the mines, as outlined in the regulation's considerations [23]. The phrase reflects the state's aim to involve local communities in old oil well mining for their welfare.

#### ***Juridical Aspects of Welfare of the Community Living around the Old Oil Well Mine***

The state's primary goal is to achieve the highest prosperity and welfare for its people. Thus, all state efforts, including managing natural resources, must aim to fulfill this objective. Public welfare is a constitutional mandate and a collective aspiration, making it a fundamental responsibility of the state [24, pp. 469–494]. In essence, the people's prosperity represents the core ideal of a welfare state that must be actualized by the Government and the State of Indonesia.

Welfare goals are achieved through tools like laws and regulations, as stated in Art. 1 of Law No. 12 of 2011, alongside Law No. 15 of 2019 and Law No. 13 of 2022: legislations are written regulations that contain binding legal norms in general and are

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formed or determined by state institutions or authorized officials through procedures stipulated in legislations [25, pp. 349–369].

Law is a normative institution of community management, and is a product of political action carried out by power as an effective institution of community management [26, pp. 89–100]. The use of law as a tool for achieving the country's goals cannot be separated from the two abilities possessed by human beings, as stated by Frans Magnis-Suseno, where human beings naturally have two basic abilities, namely, (1) the ability to know or understand something, and (2) the ability to act according to the understanding he/she has. Because man has these two abilities, man is assumed to be able to understand the law that governs his/her life; henceforth, he/she will act according to the law he/she understands, and man's arrangement using this law is the most humane arrangement [17].

According to the scholar's view, the law is a series of benchmarks that are definite (containing certainty) and have legitimacy (the basis of validity) both juridically, sociologically, and philosophically [28]. Juridical legal validity requires several things, including: (1) established by an authorized institution, (2) formed based on predetermined procedures, (3) containing conditions and consequences (cause-and-effect) [27, p. 252], and (4) ensuring fairness, certainty, and usefulness. Sociologically, legal validity requires the existence of an element of coercion from the ruler and/or recognition from the community of the law itself [28]; while the philosophical validity requires the conformity of the law with the values that live in society and in the Indonesian context. Every legal formation must consider the outlook on life, consciousness, and legal ideals, which include the spiritual atmosphere and philosophy of the Indonesian nation, which originates from the Pancasila and the Preamble to the Constitution [29].

Law regulates all aspects of life, including political, economic, and social spheres, confirming the adage "where there is society, there is law" (*ubi societas ibi ius*) is true [30, pp. 546–552]. Legal regulations ensure certainty and serve as a benchmark for assessing both the actions of rulers and the behavior of citizens. This study focuses on whether the laws and regulations governing oil and gas mining align with efforts to improve the welfare of communities living near old oil well sites.

The State holds the authority to regulate and oversee petroleum resource exploration, including old oil wells, ensuring their optimal use for public benefit through various legislative measures in the oil and gas sector:

- 1) Law No 22 of 2001 concerning Oil and Gas, in conjunction with Law No. 6 of 2023 concerning the Stipulation of Government Regulations instead of Law No. 2 of 2022 concerning Job Creation [14];
- 2) Government Regulation No. 55 of 2009 in conjunction with the Government Regulation No. 35 of 2004 concerning Upstream Oil and Gas Business Activities [31]; and
- 3) Ministerial Regulation No. 01 of 2008 concerning Guidelines for Petroleum Mining in Old Wells [6].

Two of the three regulations mentioned above expressly and explicitly contain the phrase of people's welfare and prosperity as the goal to be achieved. In the Oil and Gas Law, for example, it is stated that: oil and gas is a strategic non-renewable natural resource controlled by the state and is a vital commodity that controls the lives of many people and has an important role in the national economy so that its management must be able to maximally provide prosperity and welfare for the people [32, pp. 241–254].

The next provision that also affirms the purpose of achieving people's welfare is in Art. 2 which states that the implementation of Oil and Gas business activities regulated in this Law is based on the people's economy, integration, benefits, justice, balance, equity, common prosperity and the welfare of the people, security, safety, and legal certainty, and is environmentally conscious [33].

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These provisions reflect legal policies aiming for public welfare, notably through the Oil and Gas Law and Job Creation Law, which enable community participation in oil and gas businesses based on capabilities.

Ministerial Regulation No. 1 of 2008 emphasizes community welfare by allowing local communities to manage and operate old oil wells with simple equipment after obtaining permits, aiming to optimize oil production and improve local well-being, namely:

- 1) improving the economy of the community around the old oil well;
- 2) increasing Regional Original Revenue (PAD);
- 3) increasing national petroleum production; and
- 4) encouraging the participation of the surrounding community in the KUD/BUMD forum to cultivate old oil wells [34].

Ministerial Regulation No. 1 of 2008 reflects community participation in petroleum mining, allowing local enterprises to manage old oil wells, but it lacks clear mechanisms, legal certainty, and welfare improvement for communities. The legislation should be revised to address oil exploitation, focusing on community welfare by ensuring participation, providing training, and ensuring fair, transparent profit-sharing, balancing resource management with people's rights. The regulation of petroleum mining in old wells under Ministerial Regulation No. 1 of 2008 needs strengthening, focusing on clearer norms for community welfare to ensure prosperity for local communities, considering social justice.

#### ***Sociological Aspects of Welfare of the Community Living around the Old Oil Well Mine***

Community welfare as a goal to be achieved by the state is not solely material welfare but includes broader welfare in all fields. Based on the provisions of Art.1 Number 1 of the Law No.11 of 2009 concerning Social Welfare [35], social welfare is defined as the condition of the fulfillment of the material, spiritual, and social needs of citizens in order to live a decent life and be able to develop themselves, so that they can carry out their social functions.

According to Schneiderman, as quoted by Fahrudin, welfare aims: a) to achieve prosperous living conditions, including the achievement of basic living standards such as clothing, housing, food, health, and social relations that are in harmony with the environment; b) conditions where good self-adjustment is achieved, especially between communities in their environment; and c) a satisfactory development of the standard of living. Meanwhile, according to Az-Zahra, welfare has at least three main objectives, namely: 1) the maintenance of a system related to the maintenance of a balance between values and norms and community rules; 2) the supervision of a system of behavior that is not in accordance with the social assessment of being effectively supervised; and 3) the occurrence of a change in the system for a better and more effective system for community members [36].

Welfare is a fundamental right for all citizens, including those living near old oil well mines. Efforts to achieve welfare for mining communities, viewed from both philosophical and legal perspectives, have been carried out. However, while ideal goals are formalized in laws and regulations within the mining sector, these norms often only dictate what should be done (*das sollen*). In reality, what occurs in society (*das sein*) may not align with these regulations. This is evident in the communities surrounding old oil well mines in Musi Banyuasin District, South Sumatra.

The research reveals that the three subdistricts in MUBA, Babat Toman, Batanghari Leko, and Bayung Lincir, have many old oil wells, but they cannot be considered prosperous. Despite abundant petroleum resources, oil is not the primary commodity for residents, many of whom still rely on agriculture and other small-scale sectors. The opportunity for locals to participate in oil well exploitation is limited, as they view the policy as inadequate and struggle with complex administrative procedures they do not fully understand.

The licensing process outlined in Ministerial Regulation No. 1 of 2008, which requires Minister approval for mining old oil wells, is seen as burdensome by the community. While

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they need economic improvement, the complicated permit process hinders progress, leading some to resort to illegal, high-risk oil mining, endangering both safety and the environment. Based on the monitoring carried out by researchers, the illegal oil mining activities were very rampant in almost all areas of MUBA District, including in the three sub-districts of the research site [37].

Illegal petroleum mining in old oil wells and new oil wells in MUBA District is not only a form of violation of the provisions of the new legislation, but also sociologically has put the community, especially the people living around the mine, in a condition of a risky community [37]. A risk society can be defined as a society that is faced with a life full of uncertainty generated by human activities themselves, such as air pollution and global warming, that endanger human life.

The term risk society has been described by many sociologists, including Ulrich Beck. According to Beck, risk is something that is very possible for physical and mental damage to occur [38, pp. 89–94]. In the mining ring community involved in illegal oil extraction, the economic benefits of mining are seen as promising compared to income from agriculture and plantations. Consequently, risks like environmental damage, health issues, and safety are often overlooked.

The mining community in MUBA District has experienced a noticeable shift in social values. Based on interviews with residents, many people involved in both old and new oil wells focus primarily on financial profit, with less attention to environmental concerns, particularly forests. Despite this, MUBA District has local wisdom promoting environmental conservation. One example is the oral tradition of "Dundai Naek Sialang," a series of poems sung during the harvest of honey from the Sialang tree, which also includes rules to protect the trees and forests [38]. This local wisdom is one of many MUBA District traditions focused on environmental preservation, but it's diminishing as society becomes more materialistic, resulting in a decline in cultural and spiritual conservation practices.

Rampant mining in old and illegal wells has worsened conditions, failing to improve local welfare. MUBA District's economy remains stagnant, with 2024 data showing it as South Sumatra's third poorest district [10], with the number of residents below the poverty line around 101,063 people in 2023 and 88,94 thousand of Musi Banyuasin residents in 2024. This fact shows that from the sociological and economic aspects, the policy of regulating the mining of old oil wells has not been able to guarantee the welfare for the community, including the people living around the mine [10].

Another unavoidable issue is environmental degradation and associated health hazards. Based on researchers' monitoring in several areas within Babat Toman, Batanghari Leko, and Bayung Lincir Subdistricts, the environment surrounding illegal oil wells is predominantly in a severely degraded state. The damage ranges from minor forms, such as drilling waste, to more critical conditions, including open excavated pits that are left unattended and can release hazardous gases at any time, posing a high risk of explosions [39]. In addition, rivers around the mining sites have been polluted, and air quality has deteriorated significantly due to emissions from both extraction and crude oil refining activities.

Illegal oil mining has caused severe environmental damage, impacting nearby communities. Many residents, working as laborers in illegal wells, earn much less than mine owners. This worsens their ongoing struggles, preventing the realization of welfare goals through regulation.

**Conclusion.** The legal framework governing oil and gas mining, as outlined in Laws No. 22/2001 and No. 6/2023, alongside Ministerial Regulation No. 1/2008, aligns philosophically with Indonesia's national values, as reflected in Pancasila and the goals of the 1945 Constitution to promote public welfare. While these laws emphasize community welfare in their preambles, they fail to provide clear measures for achieving it. Furthermore, the 2008 regulation mainly addresses the technical and administrative aspects of oil well management,

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focusing on large corporations and regional enterprises, neglecting the improvement of local communities' well-being.

Empirical studies in three subdistricts of Musi Banyuasin District, South Sumatra, Babat Toman, Batanghari Leko, and Bayung Lencir, reveal a clear disparity between normative expectations and actual conditions. Instead of improving community welfare, the legal policies in the mining sector, particularly the Oil and Gas Law and Ministerial Regulation on old oil well operations, have had the opposite effect. Local communities face numerous challenges, such as obtaining complex permits and dealing with illegal mining practices. These activities have led to environmental harm, health issues, and safety risks, undermining the intended welfare improvements.

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#### **Індах Фебріані**

докторант юридичного факультету Університету Бравіджаї

#### **Ракмад Сафаат**

професор з аграрного права та природних ресурсів юридичного факультету Університету Бравіджаї

#### **Істіслам**

доцент з державного адміністративного права юридичного факультету Університету Бравіджаї

#### **Індах Дві Курбані**

доцент з конституційного права юридичного факультету Університету Бравіджаї

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**Філософські, юридичні та соціологічні аспекти добробуту громади, що проживає навколо старої нафтової шахти**

У статті розглядаються умови добробуту громад, що проживають навколо старих нафтових свердловин в окрузі Мусі Баньюасін, Південна Суматра. Хоча регіон є великим виробником нафти, а видобуток нафти здійснюється протягом десятиліть, місцеве населення не відчуло значного покращення добробуту. Це свідчить про те, що конституційний мандат держави використовувати природні ресурси для найбільшого блага людей не був повністю реалізований. У дослідженні використовується соціально-правовий підхід для аналізу філософських, юридичних та соціологічних проблем, що перешкоджають підвищенню добробуту.

З філософської точки зору, природні ресурси Індонезії повинні підтримувати колективний добробут відповідно до Панчасіли та статті 33 Конституції 1945 року. Однак цінності соціальної справедливості та розширення прав і можливостей громад не були ефективно втілені в життя. Юридично, нормативно-правова база, включаючи Закон про нафту і газ та Міністерське постановлення № 1 від 2008 року, надає можливості для участі громади в управлінні старими свердловинами. Однак ці норми є неповними та не мають чітких механізмів, орієнтованих на добробут, що призводить до правової невизначеності та обмежених вигод для громади. Соціологічно, участь місцевих жителів має перешкоди у вигляді складних процедур ліцензування, що підштовхує багатьох до незаконного видобутку корисних копалин. Така ситуація наражає їх на серйозні професійні та екологічні ризики, тоді як економічні вигоди залишаються непослідовними та нерівними. Незважаючи на високий видобуток нафти, Мусі Баньюасін залишається одним з найбідніших районів провінції, демонструючи суттєвий розрив між нормативними очікуваннями та реальними результатами.

У дослідженні зроблено висновок, що чинна правова політика не сприяє ефективному покращенню добробуту громад поблизу старих нафтових свердловин. Необхідна регуляторна реформа для забезпечення чіткішого захисту добробуту, забезпечення справедливої участі громади та сприяння сталому розвитку. Посилення правової визначеності та соціальної справедливості є важливим для того, щоб управління природними ресурсами дійсно сприяло покращенню умов життя місцевого населення.

*Ключові слова:* добробут, громада, видобуток корисних копалин, нафта

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