

Mining Permits for Religion Organizations in Indonesia: Public Interest vs Islamic Ethics

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Abstract

This study critically examines the Indonesian government's policy of granting mining permits to religious organizations, which has given rise to various interpretations and ethical polemics because it is not in line with Law Number 3 of 2020 concerning Mineral and Coal Mining (Minerba Law) and Government Regulation Number 25 of 2024 concerning the Implementation of Mineral and Coal Mining Business Activities. This research focuses on analyzing this legal disharmony while evaluating the ethical implications through the perspective of Islamic environmental



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ethics. With a community service approach based on juridical and conceptual analysis, this study links the theory of law enforcement with Islamic ethical principles, including *fiqh al-bi'ah*, *maqāṣid al-sharī'ah*, and the concept of *amanah*. The results of the study show regulatory inconsistencies and ethical weaknesses in policies that place religious organizations as political-economic actors, thereby potentially weakening their moral authority, neglecting ecological sustainability, and disregarding justice and the public interest. The recommendation that can be offered is the need for policy reform that affirms the role of religious organizations not as economic actors in mining, but as moral and ethical guardians in the management of natural resources. This reform needs to be realized through multi-stakeholder participation, the strengthening of legal instruments that are in line with religious values and environmental ethics, and oversight mechanisms that ensure that mining management is truly directed towards public welfare and ecological sustainability.

KEYWORDS: *Mining Law, Religious Organizations, Islamic Ethics, Ecological Justice*

Introduction

The mining sector holds a strategic position in Indonesia's national development.¹ As a country rich in natural resources, mining in Indonesia is a sector that creates jobs and generates state revenue.² However, mining activities often have negative impacts and are even detrimental to the surrounding community. This creates dilemmas and problems in the implementation of regulations, which are prone to causing environmental damage, social conflict, uneven distribution, and even corruption and abuse

¹ Zulkifli Aspan, "Local Wisdom-Based Water Resources Conservation : Enhancing Local Wisdom in Society 5.0," *Hasanuddin Law Review* Volume 9, no. Nomor 2 (2023): Faculty of Law, Hasanuddin University, Indonesia, hlm. 233..

² Fadila Nur Annisa, Azzahra Nurraina Tazakka, and Syaif Arsyad, "Dilemma of Licensing Mining Business Activities by Community Organizations in Indonesia Between State, Society, and Human Rights," *RSF Conference Series: Business, Management and Social Sciences* 4, no. 1 (2024): Universitas Airlangga, Surabaya, Indonesia, hlm. 2, <https://doi.org/10.31098/bmss.v4i1.887>.

of authority.³

Mining is technically regulated in Law No. 3 of 2020 concerning Mineral and Coal Mining (Minerba Law) and a series of derivative regulations. Article 33 paragraph (3) of the 1945 Constitution explicitly states that the earth, water, and natural resources therein are controlled by the state and utilized as much as possible for the welfare of the people.⁴ However, problems arise when the government's policy on priority offers for Special Mining Business License Areas (WIUPK), through Government Regulation Number 25 of 2024 concerning Amendments to Government Regulation Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities, the government expands the entities entitled to receive priority offers, including Special Mining Business License Areas (WIUPK), which were previously limited to State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD), now also includes business entities owned by religious community organizations.⁵

Amidst the pros and cons that have arisen, the Prabowo Subianto administration has ensured that the implementation of the policy issued by President Joko Widodo is accountable and in accordance with laws and regulations based on the spirit of environmental sustainability.⁶ Normatively, Article 75 paragraphs (3) and (4) of the Minerba Law stipulate that priority for the granting of Special Mining Business Permits (WIUPK) is only given to State-Owned Enterprises (BUMN) and Regionally-Owned

³ Zakiyatun Nufus, Fendi Setyawan, and Galuh Puspaningrum, "Mining Business License Area For Religious Community Organizations In The Perspective Of The Welfare State," *International Journal of Health, Economics, and Social Sciences (IJHESS)* 7, no. 1 (2025): Fakultas Hukum Universitas Jember, Indonesia, hlm.

⁴ Marthen B Salinding and Aris Irawan, "Fulfillment of Indigenous Peoples Rights on Natural Resources As Constitutional Rights," *South East Asia Journal of Contemporary Business, Economics and Law* 30, no. 1 (2023): hlm. 39-45.

⁵ Ananda Putri Salsabila, "Disharmoni Peraturan Penawaran Prioritas Wilayah Izin Usaha Pertambangan Khusus (Wiupk) Pasca Diprioritaskan Terhadap Badan Usaha Organisasi Kemasyarakatan 'Keagamaan,'" *Jurnal Hukum & Pembangunan* 55, no. 1 (2025): Universitas Negeri Surabaya, hlm.66–88, <https://doi.org/10.21143/jhp.vol55.no.1.1693>.

⁶ Ferdian Andi, "Izin Tambang Dan Mandat Ormas Keagamaan," *Tempo*, 2024, <https://www.tempo.co/kolom/risiko-izin-tambang-ormas-keagamaan-22803>.

Enterprises (BUMD).⁷ With the addition of a clause that gives priority rights to religious organizations, the government is considered to have made an extensive interpretation that goes beyond the provisions of the law. From the perspective of the principle of *lex superior derogat legi inferiori*, government regulations cannot contradict higher laws.⁸ This means that this policy is legally questionable because it has the potential to be unconstitutional.

Religious organizations are groups of people who share the same religion and beliefs and carry out activities that support the achievement of the organization's goals.⁹ Law of the Republic of Indonesia Number 16 of 2017 concerning the Stipulation of Government Regulations in Lieu of Laws - Law Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations, Article 5 regulates the objectives of community organizations, namely to increase community participation and empowerment, provide services to the community, preserving religious values and belief in God Almighty, maintaining and preserving norms, values, morals, ethics, and culture in society, conserving natural resources and the environment, developing social solidarity, cooperation, and tolerance in community life, maintaining, preserving, and strengthening national unity and integrity, and realizing the objectives of the state.

Eka Ratna Amelia analyzes how political dynamics influence the distribution of natural resources, with pork barrel politics leading to

⁷ Satya Arinanto and Dian Parluhutan, "Holding of the Indonesian State-Owned Enterprises and Analysis of the Judicial Review Over the Government Regulation Number 47/2017 Juncto Law Number 19 Year 2003 on the BUMN," in *3rd International Conference on Law and Governance (ICLAVE 2019)* (Atlantis Press, 2020), 254–61.

⁸ Enny Soeprapto, "On Foreign Relations (Lex Posterior Derogat Legi Priori; Lex Superior Derogat Legi Inferiori).," *Asian Journal of Law and Society* 8 (2021): 429–30.

⁹ Mawardi, *Manajemen Lembaga Keagamaan, Fakultas Ushuluddin Dan Filsafat UIN AR-RANIRY*, Cetakan Pe (Banda Aceh: Fakultas Ushuluddin dan Filsafat UIN AR-RANIRY Bekerja sama dengan PT. Bambu Kuning Utama, 2019), hlm. 1-113.

corruption, budget waste, and social polarization¹⁰. Muhammad Rifqi Hamidi looks at the mining sector for future generations, encouraging innovation and green technology, developing regional infrastructure, and providing jobs and improving the welfare of surrounding communities.¹¹ Theresia Septrina emphasizes the importance of implementing sustainable and environmentally friendly business practices in the mining industry.¹² Erwin Anshari's research on Panggulawudi Village, Sawa District, North Konawe Regency, related to strategies for reducing agrarian conflicts in mining areas, can have an impact on social stability and also influence environmental sustainability and development justice.¹³ Sasikirana Anastasia emphasized that agrarian policies should be oriented towards investment and economic growth so as not to neglect the rights of indigenous peoples.¹⁴

The Islamic ethical dimension provides a deeper perspective. In Islamic tradition, nature and all its contents are viewed as a divine trust that must be managed fairly, wisely, and sustainably.¹⁵ The Qur'an repeatedly emphasizes the prohibition of causing destruction (*fasād*) on earth (QS. Al-

¹⁰ Eka Ratna Amelia et al., "Ironi Kebijakan Energi Pemerintah Dan Peran Ormas Di Dalamnya," *Jurnal Ilmiah Komputer Akutansi* Volume 17, no. Nomor 2 (2024): Program Studi Magister Administrasi Publik Universitas Mulamarwan, hlm. 388-398, <https://doi.org/10.51903/kompak.v17i2.2142>.

¹¹ Muhammad Rifqi Hamidi Tuti Widtaningrum, "Pembaharuan Hukum Pertambangan Mineral Dan Batubara Menuju Keadilan Dan Kepastian Hukum Yang Berlanjutan Untuk Masyarakat Indonesia," *Iblam Raw Jurnal* 4, no. 3 (2024): Universitas 17 Agustus 1945 Jakarta, hlm. 1-12.

¹² Theresia Septrina, Cris Kuntadi, and Rachmat Pramukty, "Strategi Industri Hijau, Pengungkapan Laporan Keberlanjutan Dan Pertumbuhan Penjualan Terhadap Nilai Perusahaan Sektor Pertambangan," *Jurnal Sosial Dan Sains* 3, no. 4 (2023): 425-31, <https://doi.org/10.59188/jurnalsosains.v3i4.736>.

¹³ Erwin Anshari et al., "Partisipasi Teritorial Masyarakat Lingkar Tambang Terhadap Batas Izin Usaha Pertambangan (IUP) Batuan Sebagai Upaya Pencegahan Konflik Agraria Di Desa Panggulawu, Kecamatan Sawa, Kabupaten Konawe Utara," *Akar Ilmu: Jurnal Pengabdian Masyarakat* Volume 1, no. Nomor 1 (2025): Universitas Halu Oleo, hlm. 9-15.

¹⁴ Sasikirana Anastasia, "Implikasi Hukum Agraria Terhadap Konflik Pertanahan Indonesia," *Arus Jurnal Sosial Dan Humaniora (AJSH)* 4, no. 2 (2022): Universitas Muhammadiyah Kalimantan Timur, hlm. 545-553.

¹⁵ A Rehman, "The Quranic Perspective on Natural Resource Management and Its Implications for Sustainable Development," *Al-Quran and Water Science* 2, no. 1 (2025): 1-10.

A'raf [7]: 56; QS. Ar-Rum [30]: 41),¹⁶ and places humans as khalifah (stewards) responsible for maintaining the balance of the ecosystem.¹⁷ The concept of fiqh al-bi'ah or Islamic environmental law emphasizes that the management of natural resources should not be driven solely by economic interests, but must also consider the principles of intergenerational justice, public interest (maslahah 'ammah), and the prohibition of causing damage.¹⁸

PT. Adaro Energy Tbk is a coal mining company that holds a Coal Mining Business Contract (PKP2B) covering an area of 31,380 hectares in South Kalimantan. The company's operations span three districts, namely Hulu Sungai Utara, Balangan, and Tabalong. The company's excavation and environmental damage activities contributed significantly to the 2021 floods in South Kalimantan, which killed 24 people and displaced 113,000. Approximately 1,000 people/300 households lost their homes. In October 2022, PT. Adaro Energy's PKP2B permit will expire, and to date, the company's coal mining activities have left at least 30 mine pits, with only 18 percent of PT. Adaro Energy's mine pits having been reclaimed. However, according to the Mining Law, all mine pits must be fully reclaimed before the contract expires.¹⁹

PT. Gema Kreasi Wardana Mine Destroys the Environment and Economic Resources of the People (Fishermen) Violation of the Letter of the Director General of Minerals and Coal, Ministry of Energy and Mineral Resources number: B571/MB.05/DJB. B/2022, which conducted illegal nickel mining activities covering a concession area of 900 hectares in

16 Waris Ahmad, "Environmental Interpretation," *HUMANIST: As' Adiyah International Journal of Humanities and Education* 1, no. 1 (2024): 8–19.

17 Maulana Bagus Rahmat, "The Idea of Islamic Ecotheology in Responding to the Global Environmental Crisis: An Analysis of the Concepts of Khalifah, Mīzān, and Maṣlaḥah," *Indonesian Journal of Islamic Theology and Philosophy* 7, no. 1 (2025): 93–110.

18 Januariansyah Arfaizar, "The Enviromental Crisis In The Prespective Of Contemporary Islamic Studies In Indonesia," *Russian Law Journal* 11, no. 5 (2023): 412–27.

19 Della Syahni, "Belajar Dari Banjir Kalimantan Selatan, Peringatan Agar Bijak Kelola Alam," *Mongobay*, 2021, <https://mongabay.co.id/2021/02/01/belajar-dari-banjir-kalimantan-selatan-peringatan-agar-bijak-kelola-alam/>.

Wawoni Tenggara Subdistrict, North Konawe Regency, on February 7, 2022. The social, economic, and environmental impacts of mining waste and the construction of the company's port in Masolo and Roko Roko villages have damaged coral reefs, making it increasingly difficult for fishermen to catch reef fish, octopus, yellowtail, tuna, and sunfish. As a result, fishermen must search for fish further away, between 10 and 40 miles, while in several other villages, tuna fishermen must go even further from the coast, reaching 100 to 400 miles. Consequently, fishermen need more time to go to sea and consume more fuel. Additionally, mining activities have damaged the water sources on Wawoni Island, which is the only main source of water for around 76.63 percent of the population.²⁰

PT Vale operates under a Contract of Work that was amended on October 17, 2014, and is valid until December 28, 2025, with a concession area of 118,017 hectares covering South Sulawesi (70,566 hectares), Central Sulawesi (22,699 hectares), and Southeast Sulawesi (24,752 hectares). In South Sulawesi, the company's 50-year operations have caused environmental damage and conflicts. Waste from PT. Vale Indonesia has increased the rate of sedimentation, forming new land covered in fine mud on the shores of Lake Mahalona in Tole Village, Towuti District, East Luwu Regency. The current area of Lake Mahalona is approximately 2,289 hectares, a decrease of 151 hectares from its previous size of 2,440 hectares. PT Vale Indonesia's activities also threaten the survival of endemic fauna and flora such as Tembesu wood, Anoa Quarlesi, and Babi Rusa.²¹

Previous studies have discussed mining governance issues in Indonesia, including corruption in licensing, environmental impacts, and social conflicts with indigenous peoples.²² However, research specifically

²⁰ Iwan Purwantono, "Diduga Langgar Hukum, Anak Usaha Harita Group Tetap Keruk Nikel Di Wawonii," *inilah.com*, 2024, <https://www.inilah.com/diduga-langgar-hukum-anak-usaha-harita-group-tetap-keruk-nikel-di-wawonii>.

²¹ Fernanda Saputra, "PT Vale Bentuk Konservasi Flora-Fauna Hadapi Perubahan Rona Alam," *IDN Times*, 2025, <https://www.idntimes.com/business/economy/pt-vale-bentuk-konservasi-flora-fauna-hadapi-perubahan-rona-alam-01-pdffn-hnj1s4>.

²² Lady Tri Sonic, "Optimalisasi Sistem Perizinan Pertambangan Di Indonesia: Menuju Tata Kelola Yang Berkelanjutan Dan Bermanfaat," in *Prosiding Seminar Nasional*

examining the involvement of religious organizations in the mining sector is still limited.²³ The 2019 European Green Deal in European Union (EU) countries suggests that climate protection can be a solution for environmental prevention. The concept of a green economy is in line with Islamic teachings, especially in terms of human responsibility for the environment, resource efficiency, and social justice. In addition, countries in the Middle East, such as the United Arab Emirates, Saudi Arabia, and Qatar, have adopted national policies and strategies that support the transition to a green economy, such as the UAE Energy Strategy 2050, Saudi Vision 2030, and Qatar National Vision 2030.²⁴

This study attempts to fill this gap by conducting a critical analysis of the policy of granting mining permits to religious organizations through a legal-normative and Islamic ethical approach. The legal-normative approach is used to assess the conformity of the policy with the hierarchy of legislation, legal principles, and theories of authority.²⁵ Meanwhile, the Islamic ethical perspective is used to assess the moral and spiritual dimensions of the policy, particularly in relation to the principles of *maslahah*, the prohibition of *fasād*, and the concept of ecological justice.²⁶ The integration of these two frameworks is expected to provide a more holistic analysis, assessing not only formal legality but also substantive

Program Doktor Ilmu Hukum UMS 2024 Kebijakan Pengelolaan Pertambangan: Perspektif Transendental, 2024, Universitas Muhammadiyah Surakarta, Indonesia, hlm. 21-34.

²³ Antje Matern et al., "Strategies for Energy Transition and Regional Development in European Post-Coal Mining Regions: Ústí Region, Czechia, and Lusatia, Germany," *Territory, Politics, Governance* 13, no. 7 (2025): 1001–22, <https://doi.org/10.1080/21622671.2023.2231972>.

²⁴ Ahmad Fauzi, Muhammad Hayyi', and Lana Alkhan, "Ekonomi Hijau Dalam Perspektif Islam: Studi Kasus Timur Tengah Green Economy in Islamic Perspective: Middle East Case Study," *Jurnal Ekonomi Syariah Dan Bisnis* 8, no. 1 (2025): Fakultas Ekonomi dan Bisnis, Universitas Bangka Be, <http://ejournal.unma.ac.id/index.php/maro>.

²⁵ Maria De Benedetto, "Effective Law from a Regulatory and Administrative Law Perspective," *European Journal of Risk Regulation* 9, no. 3 (2018): 391–415.

²⁶ Nurul Ain Norman and Mohammad Eisa Ruhullah, "Exploring The Ethical Dimensions Of Fiqh: The Role Of The Soul In Achieving Maqasid Al-Shari'ah," *Al-Shajarah: Journal of the International Institute of Islamic Thought and Civilisation (ISTAC)* 29, no. 1 (2024): 47–77.

ethical dimensions.

Academically, this activity offers novelty in three ways. First, it examines mining policy from an integrative perspective between positive law and Islamic ethics, something that is still rare in the literature. Second, it presents a conceptual critique of legal political practices that use religious institutions as economic instruments, by showing their ethical and ecological implications. Third, it provides practical contributions to the formulation of mining policies that are more inclusive, equitable, and sustainable, while also complying with sharia principles.

This study has several objectives. First, to analyze the legal-normative compatibility of Government Regulation No. 25 of 2024 with the Mineral and Coal Mining Law and the principles of constitutional law.²⁷ Second, to examine the implications of this policy on the socio-religious role of religious organizations from an Islamic ethical perspective.²⁸ Third, to identify the ecological, social, and political risks arising from this policy, as well as to offer policy recommendations based on the principles of justice, sustainability, and the welfare of the people.²⁹ This study is expected to contribute theoretically to the development of legal politics and environmental fiqh studies, as well as to contribute practically to policymakers in formulating more equitable and sustainable regulations.

This activity is not merely a juridical evaluation of mining policy, but also an effort to build a new paradigm for natural resource management in Indonesia based on legal justice and Islamic ethics. This paradigm is important to ensure that natural resource management does not fall into the logic of economic pragmatism but rather is oriented towards the welfare of

²⁷ Gilvert Angervil, "Introducing Subplot in Policy Narratives: A Structural Narrative Analysis of the Debate over the Pebble Mine Project in Bristol Bay in Alaska, United States," *Politics & Policy* 52, no. 2 (2024): 256–87.

²⁸ Muhammad Ridhuan Tony Lim Abdullah et al., "Sustainable Socio-Religious Harmony Development in Malaysia: An Interpretive Structural Modelling for Multi-Religious Society," *Journal of Al-Tamaddun* 12, no. 1 (2017): 53–64.

²⁹ Kevin Murphy, "The Social Pillar of Sustainable Development: A Literature Review and Framework for Policy Analysis," *Sustainability: Science, Practice and Policy* 8, no. 1 (2012): 15–29.

the people, environmental sustainability, and legal integrity. In this era of global ecological crisis, the integration of positive law and religious ethics can be an important foundation for the creation of mining governance that is fair, sustainable, and in accordance with the noble values of the nation and religion.³⁰

Methods

This study adopts a community-service approach while maintaining a normative legal framework supported by empirical data. It examines the strategic role of religious organizations in mining licensing in Indonesia through close analysis of applicable positive-law texts and a grounded understanding of implementation dynamics developed via sustained community service with relevant stakeholders and religious institutions. Situated within contemporary Islamic legal studies that span education, humanitarian concerns, and socio-religious practice, the method integrates doctrinal analysis and institutional analysis, with community service serving as the principal mode of field engagement and validation.

A statutory approach and a conceptual approach were implemented in this investigation.³¹ The statutory approach serves to analyze the coherence between PP No. 25 of 2024, the Minerba Law, and the directive outlined in Article 33 paragraph (3) of the 1945 Constitution. In the interim, a conceptual framework is employed to synthesize legal theories, including legal instrumentalism, rule of law theory, and ecological justice theory, with Islamic environmental ethical principles such as *fiqh al-bi'ah*, *maqāṣid al-*

³⁰ John Fraedrich, Othman Althawadi, and Ramin Bagherzadeh, "A Comparative Analysis of the UN Declaration, Global Business Compact, and Religious Morals in Determining Global Values for Business and Their Application to Islamic Marketing," *Journal of Islamic Marketing* 9, no. 4 (2018): 913–34.

³¹ Jennifer H Laing et al., "Advancing Conceptual Understanding of Partnerships between Protected Area Agencies and the Tourism Industry: A Postdisciplinary and Multi-Theoretical Approach," *Journal of Sustainable Tourism* 17, no. 2 (2009): 207–29.

sharī'ah, and the notions of amanah and khalifah.³² In this way, the research emphasizes not only legal-formal aspects, but also philosophical, ecological, and moral dimensions.

The legal materials employed are categorized into three distinct groups. Initially, one must consider the foundational legal documents, such as the 1945 Constitution, Law No. 3 of 2020 pertaining to Mineral and Coal, Government Regulation No. 96 of 2021, Government Regulation No. 25 of 2024, along with pertinent judicial rulings. Secondly, secondary legal materials encompass academic literature, books, esteemed journal articles, and prior research findings that delve into the realms of mining governance, legal politics, and Islamic ethics. Thirdly, tertiary legal materials encompass legal dictionaries, encyclopedias, and official statistical data sourced from pertinent ministries. All legal materials were collected through literature studies, digital databases, and official government documents, then critically analyzed to ensure doctrinal accuracy and contextual relevance.

Data analysis was carried out using qualitative legal analysis consisting of three stages.³³ First, identification of regulatory disharmony, namely by mapping the contradictions between PP No. 25 of 2024 and the Minerba Law based on the principle of *lex superior derogat legi inferiori* and the theory of legal hierarchy. Second, interpretation through legal political theory, namely placing the regulation in the framework of legal instrumentalism to show how the law is used as an instrument of political-economic legitimacy, not as a guarantor of public justice. Third, integration with Islamic ethics, namely assessing this policy through Islamic principles of amanah (trust), prohibition of fasād (corruption), public interest (maslahah 'ammah), and intergenerational ecological justice.

³² Nausheen Atta and Ayyoob Sharifi, "A Systematic Literature Review of the Relationship between the Rule of Law and Environmental Sustainability," *Sustainable Development* 32, no. 6 (2024): 7051–68.

³³ Achmad Irwan Hamzani et al., "Legal Research Method: Theoretical and Implementative Review," *International Journal of Membrane Science and Technology* 10, no. 2 (2023): 3610–19.

This research presents a unique contribution through the amalgamation of normative legal research methodologies and the principles of Islamic environmental ethics. Typically, normative legal research focuses solely on doctrinal and juridical analysis; however, this study broadens the analytical framework to encompass ethical considerations and sustainability. Consequently, this research evaluates not only the formal legality of the policy but also examines its moral legitimacy and ecological sustainability. This integrative approach is expected to offer a significant conceptual contribution to the evolution of mining law and legal policy studies, while also delivering a practical perspective on the development of policies that are more equitable, sustainable, and aligned with the principles of sharia.

Results and Discussion

Mining Regulation Disharmony: Normative Analysis of Government Regulation I No. 25 of 2024 and Its Implications for the Mineral and Coal Mining Law

Government Regulation (PP) No. 25 of 2024, which grants mining permits to religious organizations, poses significant concerns regarding Indonesian law and legal policy. This regulation, which amends PP No. 96 of 2021, provides religious community organizations with the opportunity to oversee Special Mining Business Permit Areas (WIUPK). Nevertheless, this policy is normatively inconsistent with the Minerba Law No. 3 of 2020, which raises fundamental issues about the regulation's legitimacy and validity within the national legal system.

According to the 1945 Constitution, Article 33 paragraph (3) emphasizes that the state is responsible for the management of land, water, and natural resources, and that these resources should be utilized as much as possible to improve the welfare of the people. Sofian Effendi argues that the spirit of kinship is a characteristic of Indonesian culture, and therefore the attitudes, thoughts, behaviors, and responsibilities of a citizen towards

the collective are above individual interests.³⁴ In this context, Minerba Law Number 3 of 2020 is the main legal framework governing the management of the mining sector. As *lex specialis*, this law has a higher position than government regulations, so that every implementing regulation must comply with the norms set out in the law.

The principle of *lex superior derogat legi inferiori* affirms that lower regulations cannot contradict higher regulations.³⁵ Government regulations, as implementing instruments, only have the function of operationalizing laws, not forming new norms that exceed the provisions of the law.³⁶ Thus, PP No. 25 of 2024 cannot be used as a legal basis to expand the subjects eligible for priority mining permits without an explicit basis in the Minerba Law.

The main source of regulatory disharmony lies in Article 75 paragraphs (3)–(4) of the Minerba Law, which explicitly gives priority for IUPK only to BUMN and BUMD.³⁷ The addition of religious organizations as priority recipients through Government Regulation No. 25 of 2024 is clearly a form of extensive interpretation that exceeds the authority of the Government Regulation.³⁸ This step is not merely a technical inconsistency, but a distortion of political law, because it changes the orientation of the law from a means of justice to an instrument of political and economic legitimacy.

³⁴ Nelly Pinangkaan, "Makan Pasal 33 Undang-Undang Dasar 1945 Dalam Pembangunan Hukum Ekonomi Indonesia," *Lex Administratum*, 3, no. 5 (2015): 109–17.

³⁵ Asri Agustiwi, "Local Regulation Cancellation Mechanism and Its Legal Consequence Based on *Lex Superiori Derogot Legi Inferiori* Principle in Economy," in *SHS Web of Conferences*, vol. 54 (EDP Sciences, 2018), 1005.

³⁶ Lyudmila Berg, "The Establishment of Legal Rules as an Element of the System of Legal Influence: An Instrumental Approach," *BRICS Law Journal* 5, no. 3 (2018): 114–34.

³⁷ Ira Fadilla Rohmadanti, Febriansyah Ramadhan, and Ilham Dwi Rafiqi, "Disharmony of Domestic Refining Provisions for Mineral and Coal in Indonesian Laws and Regulations," *Pandecta Research Law Journal* 17, no. 1 (2022): 1–7.

³⁸ Jens Koehrsen and Marian Burchardt, "Religion and Development: Alternative Visions, Credibility, and Networks as Religious Assets for Sustainable Development?," *Progress in Development Studies* 24, no. 2 (2024): 129–46.

This policy has serious implications. First, from a judicial perspective, the Constitutional Court (MK) decided to reject the petition for judicial review of Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining (Minerba Law) based on Decision No. 77/PUU-XXII/2024. Second, from a political-legal perspective, the government's move shows the instrumentalization of law, where law is used as a tool to accommodate political-economic interests, rather than to guarantee justice and legal certainty.³⁹ Third, the risk of co-opting religious organizations is even greater, as they can be used to legitimize political power and as economic instruments, which ultimately obscures the original function of religious organizations as social and religious institutions.⁴⁰

Empirically, religious organizations play an important role in social life in Indonesia, as stipulated in the Constitution (Law No. 16 of 2001 in conjunction with Law No. 28 of 2004) and the Mass Organization Law (Law No. 17 of 2013).⁴¹ However, the involvement of religious organizations has the potential to face procedural obstacles because, technically and in terms of experience in mineral resource management, there are no clear technical guidelines. In line with this, the efficiency of state revenue opportunities in national development can be supported by the involvement of religious organizations in mining. On the other hand, market competition between private mining companies and state-owned enterprises offers a management model based on moral values, social accountability, and a more inclusive distribution of results.

³⁹ Fabrizio Cafaggi and Paola Iamiceli, "Uncertainty, Administrative Decision-Making and Judicial Review: The Courts' Perspectives," *European Journal of Risk Regulation* 12, no. 4 (2021): 792–824.

⁴⁰ Elina Schleutker, "Co-Optation and Repression of Religion in Authoritarian Regimes," *Politics and Religion* 14, no. 2 (2021): 209–40.

⁴¹ Max Regus, "Regulating Religion in a Time of COVID-19 Pandemic in Indonesia: Context, Dynamics, and Implication," *International Journal of Sociology and Social Policy* 42, no. 3–4 (2022): 313–31.

The exploitation of natural resources through the granting of permits to religious organizations has the potential to shift their orientation from social-religious functions to business entities.⁴² This has social consequences in the form of internal conflicts, tensions between religious communities, and a decline in public trust in religious institutions. From an ecological perspective, religious organizations' lack of experience in mining management increases the risk of environmental damage, a decline in the quality of life of local communities, and ecosystem degradation.⁴³ From a political-legal perspective, this policy marks a distortion of political law, in which the principles of justice, benefit, and legal certainty are set aside for the sake of short-term interests.⁴⁴

The policy of granting mining permits to religious organizations is a form of regulatory anomaly that undermines the principle of the rule of law, because of the regulatory disharmony between Government Regulation No. 25 of 2024 and the Mineral and Coal Mining Law. The principles of environmental sustainability and social justice, as outlined in Article 33 paragraph (3) of the 1945 Constitution, are also jeopardized by this regulation, which also violates the principle of hierarchy of laws and regulations. Consequently, it is imperative to reform mining policy in order to reaffirm the political orientation of the law in accordance with the principles of environmental sustainability, accountability, and good governance.⁴⁵ It is only through this approach that the management of

⁴² Ahmed Abdelnaby Ahmed Diab and Abdelmoneim Bahyeldin Mohamed Metwally, "Institutional Ambidexterity and Management Control: The Role of Religious, Communal and Political Institutions," *Qualitative Research in Accounting & Management* 16, no. 3 (2019): 373–402.

⁴³ Muhammad Haroon and Muhammad Hayyat, "Assessing the Dual Impact of Gold Mining on Local Communities: Socio-Economic Benefits and Environmental Challenges," *Resources Policy* 103 (2025): 105559.

⁴⁴ Felix Ekardt, "Ethics and Law of Sustainability—Especially of Freedom, Human Rights, Democracy, and Balancing in a Reinterpreted Perspective," in *Sustainability: Transformation, Governance, Ethics, Law* (Springer, 2024), 113–230.

⁴⁵ Francis Xavier Dery Tuokuu et al., "Challenges and Opportunities of Environmental Policy Implementation: Empirical Evidence from Ghana's Gold Mining Sector," *Resources Policy* 59 (2018): 435–45.

natural resources can be genuinely oriented towards maximizing the well-being of the populace, rather than serving merely as a tool for political validation or financial gain for select factions.

I. Islamic Ethics and Ecological Justice: Criticism of Mining Permits Granted to Religious Organizations

In Islamic theology, Fiqh al-biah is contemporary jurisprudence that addresses environmental issues from a practical perspective by providing guidelines (laws) for interacting with, managing, and preserving the environment.⁴⁶ A verse in the Qur'an (QS. Al-Baqarah [2]: 30) explicitly states that humans were created to carry out the mandate of managing the earth with the principles of responsibility and order.⁴⁷ Mustafa Abu Sway argues that preserving the environment (bi'ah) is an important addition to the five maqasid syari'ah (religion, life, reason, lineage, and property). He explains that the maqasid syari'ah will undergo changes by making it six important elements, because humans have a good and quality environment to continue maintaining the other elements of maqasid.⁴⁸

The prohibition against fasād or destruction on earth is also emphasized in several verses. QS. Al-A'raf [7]: 56 emphasizes that humans should not cause destruction after Allah has repaired it⁴⁹, while QS. Ar-Rum [30]: 41 reminds us that destruction on land and sea is the result of human actions.⁵⁰ Ecological damage caused by large-scale mining exploitation is relevant to this concept of fasād. If mining permits are granted to entities whose main function is not expertise in environmental management, such

⁴⁶ M. Hasan Ubaidillah, "Fiqh Al-Biah Formulasi Konsep Al-Maqasid Al-Shari'ah Dalam Konservasi Dan Restorasi Lingkungan," *Al-Qanun* 13, no. 1 (2010): 26–51.

⁴⁷ Deni Wahyudi, "Human Responsibility towards Environment in the Quran," *Indonesian Journal of Islam and Muslim Societies* 2, no. 2 (2012): 293–322.

⁴⁸ Muhammad Hilmi Mat Johar et al., "Konsep Hifz Al-Bi'ah Dalam Pengurusan Risiko Bencana Alam: Satu Sorotan Awal," *Jurnal 'Ulwan* 6, no. 3 (2021): 271–81.

⁴⁹ Muhammad Ilham Sofyan, Jainul Arifin, and Syarifah Nadhiya, "Ecological Protection Reasoning in Exegesis of Qur'an Surah Al-A'raf [7]: 56 in the Medieval Period," *Religia* 27, no. 1 (2024): 125–42.

⁵⁰ Agus Firmansyah et al., "The Ecological Sustainability of the Earth System: Classical and Contemporary Interpretation of Surah Ar-Rum (Chapter 30), Verse 41," *Amorti: Jurnal Studi Islam Interdisipliner*, 2023, 160–66.

as religious organizations, the potential for ecological damage is even greater due to weak technical competence.⁵¹

In the realm of contemporary Islamic law, *fiqh al-bi'ah* (environmental jurisprudence) has developed, emphasizing the principles of balance, prohibition of damaging ecosystems, and respect for *maslahah 'ammah* (public interest).⁵² The environment is viewed as a common good that should not be used as a tool for accumulation by a handful of parties. Therefore, granting mining permits to religious organizations violates the basic principles of *fiqh al-bi'ah*, as it risks turning natural resources into a private instrument rather than collective property for the benefit of the people.

The state policy of granting mining licenses to religious organizations poses serious ethical risks, both in the theological and social spheres. First, this policy obscures the main function of religious organizations, which should be oriented towards social and spiritual functions. Religious institutions are formed to serve the people in terms of education, preaching, social services, and moral empowerment, not as corporations oriented towards capital accumulation.⁵³ This shift in function not only causes institutional disorientation, but also has the potential to undermine public trust in religious authorities, who are perceived as entering the extractive business realm with all its negative consequences.

Second, this policy opens space for serious conflicts of interest. The Gusdurian Network has expressed its stance on granting religious community organizations (*ormas*) permission to manage special mining

⁵¹ Kristina Söderholm et al., "Environmental Regulation and Competitiveness in the Mining Industry: Permitting Processes with Special Focus on Finland, Sweden and Russia," *Resources Policy* 43 (2015): 130–42.

⁵² Muhammad Harfin Zuhdi and Mohamad Abdun Nasir, "Al-Mashlahah and Reinterpretation of Islamic Law in Contemporary Context," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 3 (2024): 1818–39.

⁵³ Daromir Rudnyckyj, "Spiritual Economies: Islam and Neoliberalism in Contemporary Indonesia," *Cultural Anthropology* 24, no. 1 (2009): 104–41.

permit areas (WIUPK).⁵⁴ The chair of the Muhammadiyah Legal and Human Rights Council, Trisno Raharjo, for example, stated that he respects the leadership's decision. However, this decision is considered disappointing because it is laden with political overtones.⁵⁵ Religious organizations have broad moral influence over their congregations, so involvement in the mining business risks abusing moral authority to justify practices that clearly damage the environment. This situation has led several religious organizations to reject the granting of mining permits, including Nahdlatul Wathan Diniyah Islamiyah (NWDI), HKBP, PGI, KWI, the Indonesian Catholic Students Association, and the Gusdurian Network.⁵⁶

Third, this policy imposes a very heavy theological responsibility. Any ecological damage caused by mining activities is not only a matter of positive law, but also has spiritual consequences.⁵⁷ Religious organizations, which should be moral role models, are caught in a paradox: on the one hand, they preach about stewardship and the prohibition of damaging the earth, but on the other hand, in practice, they are part of entities that destroy the ecosystem. This theological burden cannot be taken lightly, as it will damage the moral integrity of religion in the public sphere.⁵⁸

The concept of justice in Islam is multidimensional, encompassing

⁵⁴ Ahmad Thorid, "Jaringan Gusdurian Tolak Izin Kelola Tambang Untuk Ormas Keagamaan," Detiknews, 2024, <https://news.detik.com/berita/d-7386663/jaringan-gusdurian-tolak-izin-kelola-tambang-untuk-ormas-keagamaan>.

⁵⁵ Andi Adam Faturrahman, "Kecewa Kader Setelah Muhammadiyah Putuskan Terima Izin Tambang Ormas," Tempo, 2024, <https://www.tempo.co/politik/kecewa-kader-setelah-muhammadiyah-putuskan-terima-izin-tambang-ormas-35564>.

⁵⁶ Melynda Dwi Puspita, "Daftar Ormas Agama Yang Tolak Izin Tambang Dari Jokowi," Tempo, 2024, <https://www.tempo.co/politik/daftar-ormas-agama-yang-tolak-izin-tambang-dari-jokowi--50269>.

⁵⁷ Makua M Pretty and Kola O Odeku, "Harmful Mining Activities, Environmental Impacts and Effects in the Mining Communities in South Africa: A Critical Perspective," *Environmental Economics*, no. 8, Iss. 4 (2017): 14–24.

⁵⁸ Jürgen Habermas, "Religion in the Public Sphere," *European Journal of Philosophy* 14, no. 1 (2006): 1.

distributive justice, procedural justice, and ecological justice.⁵⁹ In the context of natural resource management, ecological justice is very important because it concerns the rights of present and future generations.⁶⁰ Islam emphasizes the principle of intergenerational justice, as manifested in the teachings of amanah (trust) and the prohibition of excess (israf).⁶¹

In Islam, the environment is not merely a space for economic exploitation, but a public right (haqq al-‘ām) that must be protected.⁶² When natural resources that should be enjoyed by all are instead transferred to a handful of institutions that lack technical competence, this constitutes a violation of the principle of distributive justice. Mining, which has been empirically proven to cause deforestation, water pollution, and soil degradation, is not in line with the principle of maslahah ‘ammah.⁶³ In other words, mining activities that damage the environment are a direct violation of the divine trust, as well as a betrayal of the mandate of the caliphate.

From an Islamic ethical perspective, any action that causes more harm than good cannot be justified.⁶⁴ The principle of la darar wa la dirar (no harm to oneself or others) is a relevant ethical basis.⁶⁵ Large-scale mines

⁵⁹ Shafinah Rahim and Mustafa Omar Mohammed, “Operationalizing Distributive Justice from the Perspective of Islamic Economics,” *International Journal of Economics, Management and Accounting* 26, no. 2 (2018): 415–42.

⁶⁰ Tracey Skillington, “Changing Perspectives on Natural Resource Heritage, Human Rights, and Intergenerational Justice,” *The International Journal of Human Rights* 23, no. 4 (2019): 615–37.

⁶¹ Juliyana Junaidi, Latifah Abdul Majid, and Mohd Arif Nazri, “Revisiting Social Justice: Exploring the Qur’anic Paradigm in Addressing Contemporary Challenges,” *Afkar: Jurnal Akidah Dan Pemikiran Islam* 25, no. 2 (2023): 153–92.

⁶² Savas Alpay, İbrahim Özdemir, and Dilek Demirbaş, “Environment and Islam,” *Journal of Economic Cooperation and Development* 34, no. 4 (2013): 1–22.

⁶³ Tagor Indra Mulia Lubis, “Enforcing Laws Against Illegal Gold Mining through the Lens of Islamic Criminal Law: A Case Study of Jambur Tarutung Kotanopan,” *Al-Adalah: Jurnal Hukum Dan Politik Islam*, 2025, 396–410.

⁶⁴ Ezieddin Elmahjub, “Islamic Jurisprudence as an Ethical Discourse: An Enquiry into the Nature of Moral Reasoning in Islamic Legal Theory,” *Oxford Journal of Law and Religion* 10, no. 1 (2021): 16–42.

⁶⁵ Asst Lect Raed Ibrahim Anoun, “The Rule Of No Harm And No Harm According To His Eminence Sayyid Ali Alhusseini Alsistani: The Shadow Trap Between Shari’a And

managed by entities that are not experts clearly have the potential to cause long-term harm, not only to the environment but also to the livelihoods of local communities.

The management of natural resources in Indonesia is primarily regulated by an established legal framework. Article 33 of the 1945 Constitution delineates that the state administers the land, water, and the natural resources contained within, employing them to optimize the well-being of the citizenry. This constitutional norm emphasizes the social function of natural resources, not as private commodities.⁶⁶ Government Regulation No. 25 of 2024, which grants mining permits to religious organizations, is substantively inconsistent with the Mineral and Coal Mining Law and morally creates an ethical paradox.⁶⁷

The phenomenon of granting mining permits to religious organizations in Indonesia has sparked serious debate within the framework of positive law and Islamic ethics operating in a pluralistic legal system. Normatively, national mining law as regulated in Law Number 3 of 2020 concerning Mineral and Coal Mining requires every business actor to fulfill the principles of sustainability, justice, and environmental preservation. However, the involvement of religious organizations requires the integration of moral values derived from Islamic ethics, particularly the principles of *maslahah* (public interest), distributive justice, and the prohibition of exploitative practices, which poses a challenge for Muslims. In the context of pluralism, the application of Islamic ethics should not be understood as an instrument of dogmatic coercion, but rather as universal values that uphold justice, protect the rights of local communities, and

Law, A Comparative Study,” *International Journal of Law And Criminology* 5, no. 05 (2025): 51–62.

⁶⁶ Ibrahim Arsyad and Heliaantoro Heliaantoro, “Natural Resources Contracts and Implementation of Oil and Gas Permits in Foreign Companies Related to Article 33 Paragraph 2 and Paragraph 3 of the 1945 Constitution: Literature Review,” *Greenation International Journal of Law and Social Sciences* 2, no. 2 (2024): 13–25.

⁶⁷ Ida Sumarsih, “Challenging Nominee Agreements in the Mining Industry: Between Constitutional Mandates and Legal Evasion,” *Indonesia Law Review* 15, no. 1 (n.d.): 4.

promote environmental sustainability, including for non-Muslim communities affected by mining activities. Thus, Islamic ethics serve as a bridge in positive legal norms to achieve good mining governance and accommodate Indonesia's diverse society.

To comprehensively understand the ethical criticism of granting mining permits to religious organizations, it is necessary to use an analytical framework that integrates Islamic teachings on ecological stewardship with positive legal issues. This approach not only exposes regulatory flaws in normative terms but also reveals the moral dimensions that stem from the principles of *maqāṣid al-sharīʿah*, *fiqh al-biʿah*, and the prohibition of *fasād* in the Qurʿan. Therefore, the following analytical table is important to emphasize the correlation between legal aspects, Islamic ethics, and ecological implications.

Table 1: Correlation Between Legal Aspects, Islamic Ethics, and Ecological Implication

Aspect	Legal-Normative	Islamic Ethics	Integrated Analysis
Legitimacy	Government Regulation No. 25 of 2024 contradicts the Mining Law → causing legal defects	Religious organizations are not entrusted with managing natural resources; the mandate belongs to the ummah → ethical defect	The policy is legally invalid and morally unacceptable in Islam
Capacity	Religious organizations lack technical competence in mining management	Potential <i>fasād</i> (destruction) and neglect of trust	Elevated risk of ecological and social damage
Management Objectives	The 1945 Constitution emphasizes natural resource	<i>Maqāṣid al-sharīʿah</i> requires justice, public	The policy fails to meet the principles of just and

	management for the prosperity of the people	interest, and sustainability	equitable welfare
Implications	Causes legal conflicts and potential abuse of power	Violates the principles of khalifah and trust in Islam	The policy is defective both structurally and morally

The table above clearly shows that the issue of granting mining permits to religious organizations is not merely a legal-formal issue but also concerns fundamental Islamic ethical issues. An integrated analysis of positive law and Islamic ethics shows that this policy is flawed on two levels: regulatory (disharmony with the Minerba Law and the 1945 Constitution) and moral (denial of the principles of khalifah, amanah, and ecological sustainability). Thus, academic criticism of this policy has a more solid and comprehensive basis.

Granting mining permits to religious organizations in Indonesia not only presents legal problems, but also serious moral problems.⁶⁸ Normatively, this policy violates the principles of legal hierarchy and constitutional mandate. Ethically, this policy violates the principles of khalifah, violates the prohibition of fasād, and ignores the concept of maslahah 'ammah. From an ecological justice perspective, this policy creates intergenerational injustice and deprives the public of their right to a healthy environment.⁶⁹

Essentially, mining governance based on sharia principles emphasizes the principles of justice, benefit, and sustainability in line with Indonesian positive law in a pluralistic legal system. This integrity can be maintained through the implementation of national regulations in accordance with Islamic law, which includes various exploitative and

⁶⁸ Kurdi Kurdi, Joko Cahyono, and Cut Zulfahnur Syafitri, "Potential Violations of the Right to a Good and Healthy Environment: The Impact of Granting Special Mining Permits on Religious Community Organizations," *Jurnal Ius Constituendum* 10, no. 2 (2025): 282–95.

⁶⁹ Burns H Weston, "The Theoretical Foundations of Intergenerational Ecological Justice: An Overview," *Human Rights Quarterly* 34, no. 1 (2012): 251–66.

mandatory laws that protect the environment, prevent monopolistic practices, and social exploitation. In the context of legal pluralism, Islam is not considered a religious standard; rather, it is constructed as a universal principle that is in line with human rights and social justice. As a result, this principle can be accepted by non-Muslim communities who support mining activities through public participation, transparency, and accountability. Thus, Sharia governance in mining is not an exclusive religious tool, but rather an ethical paradigm that maintains the legitimacy of positive law and ensures a balance between economic, social, and ecological needs in Indonesian law.

Conclusion

The granting of mining permits to religious organizations in Indonesia raises a normative dialectic that requires critical examination of the balance between public interests guaranteed under the national mining law and Islamic ethics, which emphasize the principles of public benefit, distributive justice, and the prohibition of environmentally destructive exploitation. Therefore, the granting of mining permits to religious organizations is legal from a positive law perspective but must be qualified by an ethical assessment that such practices can only be justified if they truly fulfill the principle of public benefit and do not conflict with the principles of *maqāṣid al-sharīʿah*. so that this issue is more appropriately viewed as a problem of balance between formal legality and moral legitimacy rather than as a final legal fact. The results of this research carry significant weight for the development of mining policy in Indonesia. The government ought to reassess the regulations governing the issuance of mining permits to religious organizations, prioritizing the principle of the rule of law as a foundational element. This approach ensures that all policies align with the established hierarchy of laws and regulations, as well as the constitutional mandate. Furthermore, mining governance must be directed towards a

participatory model that involves multiple stakeholders, considering aspects of ecological sustainability, social justice, and Sharia principles as a basis for moral legitimacy. Thus, mining policies will not only support economic growth but also preserve environmental integrity and strengthen the socio-religious function of religious organizations as bearers of public trust.

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