

RECONSTRUCTING MINING GOVERNANCE THROUGH MAQASID AL-SHARIA: TOWARDS NATURAL RESOURCE MANAGEMENT PUBLIC WELFARE ORIENTED

¹ Nasrullah Nasrullah, ² Hadin Muhjad, ³ Erlina Erlina, ⁴ Dadang Abdullah

^{1,2,3,4} University of Lambung Mangkurat, Banjarmasin, Indonesia

Email : 7878nasrullah@gmail.com¹, mhmuhjad@ulm.ac.id², erlina@ulm.ac.id³, dadang.shmh@gmail.com⁴

Received 26-03-2025 | Revised 23-04-2025, 26-05-2025, 15-07-2025, 05-08-2025 | Accepted 22-08-2025

Abstrak: Penelitian ini menganalisis tata kelola sumber daya pertambangan di Indonesia melalui perspektif Maqashid al-Syariah sebagai landasan normatif untuk merekonstruksi sistem perizinan pertambangan batubara menuju model yang berorientasi pada kesejahteraan. Kerangka hukum yang berlaku saat ini, meskipun telah mengalami reformasi legislatif melalui Undang-Undang No. 4 Tahun 2009 dan Undang-Undang No. 3 Tahun 2020, masih menghadapi persoalan degradasi lingkungan, fragmentasi regulasi, dan distribusi sumber daya yang tidak merata. Dengan menggunakan metode penelitian hukum normatif, kajian ini menelaah peraturan perundang-undangan, doktrin hukum Islam, serta prinsip mashlahah (kemaslahatan), ‘adl (keadilan), dan hifzh al-mal (perlindungan harta) dalam kerangka Pasal 33 Undang-Undang Dasar 1945. Evolusi historis regulasi pertambangan, mulai dari konsesi kolonial hingga sistem terpusat IUPK, menunjukkan adanya ketegangan yang berkelanjutan antara eksploitasi ekonomi dan kesejahteraan publik. Penelitian ini mengajukan rekonstruksi tata kelola pertambangan yang mengintegrasikan tujuan hukum Islam untuk menjamin keadilan, perlindungan lingkungan, dan pembangunan yang inklusif. Dengan menginternalisasikan Maqashid al-Syariah dalam kerangka hukum, tata kelola pertambangan dapat diarahkan kembali pada kemaslahatan publik dan pengelolaan negara yang berkelanjutan.

Kata Kunci: *maqashid al-syariah, pengelolaan pertambangan, kesejahteraan publik.*

Abstract: This study analyzes the governance of mining resources in Indonesia through the lens of Maqasid al-Sharia as a normative foundation to reconstruct coal mining licensing systems toward a welfare-oriented model. The current framework, despite legislative reforms under Law No. 4 of 2009 and Law No. 3 of 2020, continues to grapple with environmental degradation, regulatory fragmentation, and unequal resource distribution. Using a normative legal research method, the research examines statutory regulations, Islamic legal doctrines, and principles of maslahah (public benefit), ‘adl (justice), and hifz al-mal (protection of wealth) within the context of Article 33 of the 1945 Constitution. The historical evolution of mining regulation, from colonial concessions to the centralized IUPK system, reveals a persistent tension between economic exploitation and public welfare. This study proposes a reconstruction of mining governance that integrates Islamic legal objectives to ensure justice, environmental protection, and inclusive development. By embedding Maqasid al-Sharia within the legal framework, mining governance can be redirected toward the public good and sustainable state stewardship.

Key words: *maqashid al-sharia, mining governance, public welfare.*



INTRODUCTION

Indonesia, a nation abundantly rich in natural resources, particularly coal, faces a critical challenge in balancing economic exploitation with the welfare of its people¹ and environmental sustainability². The mining sector significantly contributes to national income and exports, with coal exports reaching 394.08 million tons in 2023. Despite this economic contribution, the sector is simultaneously a major driver of environmental degradation, including water quality issues, damage to forest ecosystems, and social conflicts, especially with indigenous communities.³ The current governance framework often prioritizes economic growth, leading to a neglect of broader societal well-being and ecological balance.

The inherent link between natural resource management and people's welfare is a fundamental concern⁴. The extraction of non-renewable resources, if not managed equitably and sustainably, can lead to long-term negative impacts on communities and the environment, undermining the very notion of public benefit. This pressing situation necessitates a re-evaluation of the normative foundations guiding resource management. Islamic legal principles, particularly *Maqasid al-Sharia*⁵, offer a holistic and ethical framework that emphasizes justice, public interest, and the prevention of harm.⁶ This study posits that these principles can serve as a robust guide for shaping a more just, ethical, and welfare-oriented mining policy in Indonesia.

Indonesia's constitutional framework, specifically Article 33 of the 1945 Constitution, serves as the bedrock for natural resource management. Articles 33(2) and 33(3) explicitly mandate that "sectors of production, which are essential for the country and affect the life of the people shall be controlled by the State" and "the land, the waters and the natural resources contained therein shall be controlled by the State and exploited to the greatest benefit of the people".⁷ This establishes state control as a fundamental principle aimed at maximizing public welfare. This constitutional mandate reflects a resource nationalism that seeks to prevent external control and ensure that natural resources serve the collective good.⁸

However, the precise definition and explanation of "maximum benefit of the people" remain open to interpretation, often leading to policies that prioritize economic gain over equitable distribution and environmental protection.⁹ Despite the shift from the

¹ Elvie Wahyuni, "Penyelesaian Sengketa Lingkungan Hidup Di Luar Pengadilan," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 4, no. 2 (2009): 275–92, <https://doi.org/10.19105/al-lhkam.v4i2.277>.

² Hamzah Hamzah et al., "Sustainable Development of Mangrove Ecosystem Policy in South Sulawesi from the Perspectives of Siyāṣah and Fiqh Al-Bi'ah," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (2023): 367–80, <https://doi.org/10.31958/juris.v22i2.10559>.

³ Wulan Widiarti et al., "Management and Exploitation Of Mineral and Coal Mining In Indonesia: An Analysis Of the Perspective Of Article 33 Paragraph (3) of The 1945 Constitution Republic Of Indonesia," *Journal Evidence Of Law* 4, no. 1 (2025): 111–15, <https://doi.org/10.59066/jel.v4i1.1055>.

⁴ Moh Mufid, "Fikih Konservasi Laut: Relevansi Fiqh al-Bi'ah Di Wilayah Pesisir Lamongan," *Al-Manabji: Jurnal Kajian Hukum Islam* 12, no. 1 (2018): 1–16, <https://doi.org/10.24090/mnh.v12i1.1356>.

⁵ Saim Kayadibi, "The State as an Essential Value (Ḍarūriyyāt) of the Maqāṣid Al-Sharī'ah," *AHKAM : Jurnal Ilmu Syariah* 19, no. 1 (2019), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/6256>.

⁶ Widiarti et al., "Management and Exploitation Of Mineral and Coal Mining In Indonesia."

⁷ Provita Wijayanti et al., "The Integration of Maqasid Sharia Principles on Digital Accounting Information System in Indonesian Islamic Microfinance," *Journal of Islamic Accounting and Finance Research* 7, no. 1 (2025): 107–26, <https://doi.org/10.21580/jiafr.2025.7.1.25345>.

⁸ Peter Rutland, "Resource Nationalism: Risks and Rewards," in *Handbook of Economic Nationalism* (Edward Elgar Publishing, 2022), <https://www.elgaronline.com/edcollchap/book/9781789909043/book-part-9781789909043-17.xml>.

⁹ Wijayanti et al., "The Integration of Maqasid Sharia Principles on Digital Accounting Information System in Indonesian Islamic Microfinance."

Contract of Work (KK) regime to the Mining Business Permit (IUP) aiming to strengthen state control, challenges persist. These include overlapping licenses, weak supervision, and social conflicts with indigenous peoples.¹⁰ The mining sector's significant environmental degradation, including water quality issues and forest ecosystem damage, directly contradicts the "greatest benefit of the people" mandate.¹¹ Conflicts with indigenous communities, such as in Manggarai, East Nusa Tenggara, where customary land rights are overlooked, demonstrate a mismatch between national policies and local practices. This indicates that economic interests often take precedence over community rights and welfare. Furthermore, cases of corruption in license issuance and limited government bargaining power with foreign companies highlight the failure to fully realize the constitutional objective.¹²

Despite the clear constitutional mandate for state control and public welfare, Indonesia's coal mining licensing framework continues to face significant challenges in achieving these objectives. The core research problem is: How can Indonesia's coal mining licensing framework be effectively aligned with the principles of *Maqasid al-Sharia* to foster welfare-oriented resource management? This problem addresses the gap between the normative ideals of both the Constitution and Islamic law¹³, and the practical realities of mining governance in Indonesia.

- To critically analyze existing mining licensing regulations in Indonesia (specifically Law No. 4 of 2009 and Law No. 3 of 2020) in light of the principles of *Maqasid al-Sharia*.
- To propose a normative model for welfare-based mining governance that integrates *Maqasid al-Sharia* principles, ensuring justice, environmental protection, and inclusive development.

This study contributes significantly to the academic discourse on Islamic legal principles in public resource governance, particularly in the context of a Muslim-majority country like Indonesia. It demonstrates how *Maqasid al-Sharia* can provide a robust ethical and normative framework beyond conventional economic and legal considerations. It offers practical policy directions for Indonesian policymakers, providing a *sharia*-based perspective on justice, sustainability, and equitable resource distribution in the mining sector. By bridging Islamic ethics with constitutional mandates, the study aims to inspire reforms that lead to more inclusive development and environmental protection.

METHODS

This study employs a normative legal research methodology. Normative legal research involves examining secondary sources like literature to understand laws, legal principles, and legal history. It focuses on analyzing existing legal frameworks rather than

¹⁰ ptar2022, "History of Indonesian Gold Mining, Evolving in Colonialism Era," *Agincourt Resources*, February 13, 2023, <https://agincourtresources.com/2023/02/13/history-of-indonesian-gold-mining-evolving-in-colonialism-era/>.

¹¹ "Normative Legal Research | PDF | Data | Analysis," Scribd, accessed August 19, 2025, <https://www.scribd.com/presentation/452387689/NORMATIVE-LEGAL-RESEARCH-pptx>.

¹² Moh Rohman et al., "Methodological Reasoning Finds Law Using Normative Studies (Theory, Approach, and Analysis of Legal Materials)," *MAQASIDI Jurnal Syariah Dan Hukum* 4 (December 2024): 204–21, <https://doi.org/10.47498/maqasidi>.

¹³ Zainul Mun'im et al., "'Ulamā', Authority, and Political Relations: How the PCNU Jember Fatwā Influenced Public Policy on Gold Mining in Silo?," *Journal of Islamic Law* 6, no. 1 (2025): 46–66, <https://doi.org/10.24260/jil.v6i1.3605>.

collecting new data. This approach is often referred to as library research or theoretical/dogmatic legal research. The subject of this study is the law, which is conceptualized as a norm or rule that applies in society and serves as a reference for everyone's behavior.¹⁴

The research adopts a conceptual and statutory approach, analyzing the legal concepts embedded in Indonesian mining laws and the explicit provisions of relevant statutes. This involves a systematic review of legislation to understand the formal legal framework. Crucially, it integrates philosophical-theological analysis using *Maqasid al-Sharia*. This approach delves into the underlying wisdom, objectives, and ethical foundations of Islamic law to evaluate and propose reforms for the positive legal system.¹⁵ It seeks to understand the "why" behind Islamic injunctions and apply these higher objectives to contemporary issues like resource management.

As the ultimate sources of *Maqasid al-Sharia*, Qur'an and Hadith provide the foundational ethical and legal principles for resource management, stewardship (*amanah*), and public ownership (*milkiyyah 'ammah*). Classical and Contemporary Works of Islamic Jurisprudence offer interpretations and elaborations on *Maqasid al-Sharia*, *maslahah*, *'adl*, and *hifz al-mal*, providing the theoretical depth for the Islamic legal framework.

National Mining Legislation, specifically, Law No. 4 of 2009 concerning Mineral and Coal Mining and Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009. These are primary legal materials in normative legal research. Article 33 of the 1945 Constitution of the Republic of Indonesia: This foundational constitutional provision is central to understanding the state's mandate over natural resources¹⁶. Peer-reviewed articles, policy documents, and reports from legal scholars, economists, and environmentalists focusing on Indonesian mining, Islamic economics, environmental ethics, and public resource governance provide secondary legal materials and expert opinions.

Qualitative-Descriptive Analysis technique involves interpreting and describing the content of legal texts, historical developments, and scholarly arguments to understand the nuances of mining governance and Islamic legal principles.

Comparative Analysis between Positive Law and Islamic Normative Principles is a central analytical technique, comparing the provisions and effects of Indonesian mining laws with the ethical and objective standards derived from *Maqasid al-Sharia*. This comparison will highlight areas of alignment and, more importantly, areas of divergence where the current legal framework falls short of Islamic ideals for welfare-oriented resource management.

RESULT AND DISCUSSION

Evolution of Mining Governance in Indonesia

Indonesia's mining governance has undergone significant transformations, reflecting an ongoing struggle between economic imperatives and public welfare. The history reveals a cyclical pattern where periods of strong state assertion over resources are often followed by, or co-exist with, policies that facilitate large-scale private or foreign exploitation, driven

¹⁴ Ahmad Zuhdi et al., "Islamic Philosophy's Approach to Environmental Ethics: An Analysis of the Teachings of the Qur'an and Hadith," *Journal of Noesantara Islamic Studies* 1 (October 2024): 198–213, <https://doi.org/10.70177/jnis.v1i4.1392>.

¹⁵ Zuhdi et al., "Islamic Philosophy's Approach to Environmental Ethics."

¹⁶ Zuhdi et al., "Islamic Philosophy's Approach to Environmental Ethics."

by the need for capital and economic development¹⁷. This recurring pattern indicates that the “tension between economic exploitation and public welfare” is not a static problem but a dynamic, cyclical one. Each legislative reform attempts to address perceived shortcomings but often introduces new ones or perpetuates existing imbalances, particularly regarding environmental protection¹⁸ and equitable distribution¹⁹.

The initial phase under colonial concession system (pre-1945) saw modest mining activities expand under Dutch rule²⁰. The Indische Mijnwet (IMW) regulated mineral management, granting centralized concessions that allowed companies to freely use mines for their sole benefit, with the government collecting fixed fees. Critically, IMW did not regulate environmental requirements, leading to early forest destruction and land neglect. Foreign company entry was restricted, though later amendments allowed direct contract negotiations. The Japanese occupation (1942-1945) continued mining to support war efforts²¹.

Following independence, the post-independence nationalization and state control (1950s-1960s) period adopted a nationalistic approach, annulling pre-1949 mining rights and nationalizing Dutch-owned companies. Government Regulation in Lieu of Law (Perpu) 37/1960 replaced concessions with “mining authority,” initially preventing foreign investors. This period aimed to regain state control over natural resources, aligning with the spirit of Article 33 of the 1945 Constitution.

The re-introduction of foreign investment occurred with Contracts of Work (KK) and Coal Mining Concession Work Agreements (PKP2B) (post-1967), regulated by Law No. 1 of 1967 on Foreign Investment and Law No. 11 of 1967 on Mining Principles. These were designed to attract large capital for development. These contracts often granted extensive rights to foreign companies, raising questions about state control and public benefit²².

The shift to Mining Business Permits (IUP) and Special Mining Business Permits (IUPK) under Law No. 4 of 2009 and Law No. 3 of 2020 aimed to strengthen state control by replacing KKS with IUPs. However, Law No. 3 of 2020 introduced significant changes, centralizing licensing authority under the Ministry of Energy and Mineral Resources (MEMR) and introducing new license types, including IUPK. This law controversially allows automatic permit extensions for up to 20 years for existing contract holders. It also removed limits on mining operation size and introduced incentives for integrated operations. The shift towards centralization in Law No. 3 of 2020, while framed as strengthening state control and simplifying bureaucracy, simultaneously creates pathways for “nontraditional actors” (like religious organizations and universities) to gain mining

¹⁷ Bagio Kadaryanto et al., “Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia,” *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 1 (2025): 1–19, <https://doi.org/10.30631/alrisalah.v25i1.1845>.

¹⁸ Abdul Basir Mohamad and Nurbazla Ismail, “Environmental Preservation and Water Pollution from the Islamic Perspective,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 997–1015, <https://doi.org/10.22373/sjhk.v7i2.16019>.

¹⁹ Ali Muhtarom and Yuli Sutoto Nugroho, “Grants as a Model of Inheritance Prospective Distribution in the Coastal Santri Community,” *Al-Ahkam* 32, no. 2 (2022): 169–88, <https://doi.org/10.21580/ahkam.2022.32.2.12557>.

²⁰ Zuhdi et al., “Islamic Philosophy’s Approach to Environmental Ethics.”

²¹ Timothy Webster, “Disaggregating Corporate Liability: Japanese Multinationals and World War II,” *Stanford Journal of International Law* 56 (2020): 175.

²² Indonesia’s parliament has passed a mining bill that activists say will lead to unbridled exploitation by a mining industry that already operates with impunity over environmental and social violations et al., “With New Law, Indonesia Gives Miners More Power and Fewer Obligations,” *Environmental News, Mongabay Environmental News*, May 13, 2020, <https://news.mongabay.com/2020/05/indonesia-mining-law-minerba-environment-pollution-coal/>.

permits without public tender²³. This raises concerns about transparency²⁴, environmental impact, and whether the “public good” is truly served or if it represents a new form of elite capture. This highlights that state control per se does not automatically equate to public welfare; the nature of that control and its beneficiaries are critical.

The table below provides a concise overview of the evolution of Indonesian mining governance regimes.

Table 1: Evolution of Indonesian Mining Governance Regimes (Colonial to IUPK)

Regime Name	Period	Key Legislation / Policy	Primary Licensing Mechanism	Key Characteristics	Noteworthy Impacts / Criticisms
Colonial Concession System	Pre-1945	<i>Indische Mijnwet</i> (IMW)	Centralized Concessions	Government control over minerals, private companies manage exploitation; fixed fees collected.	Minimal environmental regulation, early forest destruction, land neglect.
Post-Independence Nationalization	1950s-1960s	Law 10/1959, Perpu 37/1960	“Mining Authority”	Nationalistic approach, annulment of old rights, initial prevention of foreign investors.	Aimed to regain state control over resources, aligned with Article 33.
Contracts of Work (KK) & PKP2B	Post-1967	Law No. 1/1967, Law No. 11/1967	Contracts of Work (KK), Coal Mining Concession Work Agreements (PKP2B)	Attracted large foreign capital for development; extensive rights often granted to foreign companies.	Raised questions about state control and public benefit due to broad concessions.
Mining Business Permits (IUP) & Special Mining Business Permits (IUPK)	Post-2009 (Law No. 4/2009), Post-2020 (Law No. 3/2020)	Law No. 4/2009, Law No. 3/2020	IUP, IUPK (including guaranteed extensions for KK/PKP2B)	Aimed to strengthen state control (IUP), centralized authority (Law 3/2020), introduced automatic extensions, removed size limits, incentives for integrated operations.	Criticized for environmental degradation, reduced community rights, legal dualism, corruption risks, benefiting elites. ¹³

Constitutional Framework: Article 33 UUD 1945

Article 33 of the 1945 Constitution stands as a cornerstone of Indonesia’s resource management philosophy. It asserts that natural resources are “controlled by the State and exploited to the greatest benefit of the people”. This mandate is deeply rooted in the post-

²³ ptar2022, “History of Indonesian Gold Mining, Evolving in Colonialism Era.”

²⁴ Aditya Prastian Supriyadi et al., “Green Sukuk in Indonesia: Unraveling Legal Frameworks for Sustainable Islamic Bonds,” *El-Mashlahah* 13, no. 2 (2023): 151–80, <https://doi.org/10.23971/el-mashlahah.v13i2.7372>.

colonial desire to abolish economic colonialism and ensure national sovereignty over vital sectors, preventing external control. The concept of “state control” is interpreted as a means to achieve public welfare²⁵, and it does not necessarily preclude foreign investment, which is seen as permissible and even desirable to achieve successful exploitation of natural resources²⁶.

However, this interpretation has led to significant gaps between the constitutional ideal and practical implementation. Despite the shift from the Contract of Work (KK) regime to the Mining Business Permit (IUP) aiming to strengthen state control, challenges persist, including overlapping licenses, weak supervision, and social conflicts with indigenous peoples²⁷. The mining sector’s substantial environmental degradation, encompassing water quality issues and forest ecosystem damage, directly contradicts the constitutional mandate for “greatest benefit of the people”. Conflicts with indigenous communities, such as those observed in Manggarai, East Nusa Tenggara, where customary land rights are often overlooked, highlight a fundamental disconnect between national policies and local realities. This suggests that economic interests frequently take precedence over community rights and welfare. Furthermore, instances of corruption in license issuance and the government’s limited bargaining power with foreign companies underscore the failure to fully realize the constitutional objective²⁸.

The observed reality, where the implementation of resource management faces persistent issues despite the constitutional ideal, reveals a profound paradox in the operationalization of “state control.” If state control primarily serves to facilitate large-scale corporate extraction, whether by domestic or foreign entities, with insufficient regulatory oversight, transparency, and accountability, then it effectively becomes a mechanism for elite capture or profit maximization rather than genuine public welfare. The constitutional mandate is interpreted in a way that allows for significant private sector involvement, but without robust mechanisms to ensure that the benefits truly accrue to the broader populace and that environmental costs are fully internalized. Consequently, the “greatest benefit” appears to be defined predominantly in economic terms, such as export volumes and national income, rather than holistically to include environmental health, social equity, and intergenerational justice.

Core Issues in Current Mining Regulation

Despite legislative efforts, several critical issues plague Indonesia’s mining sector, hindering its ability to contribute to sustainable public welfare. These challenges form an interconnected vicious cycle where weak governance, environmental harm, and social injustice reinforce each other.

The mining sector is a major contributor to environmental degradation, including water quality degradation, forest ecosystem damage, and the presence of abandoned mining pits that have caused fatalities, particularly among children²⁹. Nickel mining, for instance, is directly linked to significant deforestation and water contamination. The new

²⁵ Musleh Herry, “Penataan Kewenangan Pemerintah Daerah Bidang Pertanahan Di Masa Mendatang,” *De Jure: Jurnal Hukum Dan Syar’iah* 6, no. 1 (2014), <https://doi.org/10.18860/j-fsh.v6i1.3194>.

²⁶ “Indonesia Amends the Mining Law,” <https://www.nortonrosefulbright.com/en/knowledge/publications/B545e479/Indonesia-Amends-the-Mining-Law>, accessed June 20, 2025, <https://www.nortonrosefulbright.com/en/knowledge/publications/b545e479/indonesia-amends-the-mining-law>.

²⁷ violations et al., “With New Law, Indonesia Gives Miners More Power and Fewer Obligations.”

²⁸ ptar2022, “History of Indonesian Gold Mining, Evolving in Colonialism Era.”

²⁹ Silanee Klongrua et al., “Maqasid Al-Shariah and Environmental Sustainability: An Islamic Economic Perspective,” *International Journal of Kita Kreatif* 2 (February 2025), <https://doi.org/10.24815/ijkk.v2i1.44790>.

Minerba Law (Law No. 3 of 2020) is criticized for not adequately addressing these issues and for potentially accelerating environmental destruction, as it removes limits on the size of mining operations and allows automatic permit extensions³⁰. Issues of regulatory fragmentation and overlapping authorities persist, leading to confusion and disputes. While Law No. 3 of 2020 centralizes licensing authority to the central government, this shift has been criticized for diminishing regional autonomy and potentially leading to “hyper-regulation”. Weak inter-agency coordination and insufficient government oversight contribute to non-adherence to regulations by mining companies.

The current framework often overlooks the rights and needs of local and indigenous communities, leading to limited access for community-based mining actors and social conflicts. Social conflicts arise from disputes over customary lands and the prioritization of economic interests over community welfare. The new law is criticized for failing to safeguard community well-being, providing “unrestricted rights to miners,” and even criminalizing those who fight against mining activities under Articles 162 and 164, which carry penalties of up to one year imprisonment or a fine of IDR 100 million. Indigenous populations, estimated at 40-50 million, often lack designated legal status, and their engagement is stipulated but not effectively guaranteed³¹.

A significant concern is legal dualism and lack of transparency. Law No. 3 of 2020 controversially guarantees the extension of Contracts of Work (KK) and Coal Mining Concession Work Agreements (PKP2B) into Special Mining Business Licenses (IUPK) for two subsequent 10-year periods. This provision is seen as bypassing public tender processes, benefiting specific entities and raising concerns about political motivation and corruption. While framed as strengthening state control, this guaranteed extension allows foreign companies to maintain significant control over natural resources, which constitutionally should be managed by state-owned enterprises (BUMN) or regional-owned enterprises (BUMD) for national interest and public welfare. This perpetuates a de facto legal dualism where older, more concessionary contracts are maintained under a new name, undermining the spirit of Article 33. The guaranteed extensions, coupled with ambiguous reclamation obligations and administrative-only sanctions, are feared to perpetuate environmental damage. The annulment of the requirement for a reclamation plan before IUPK issuance is particularly problematic³².

Finally, the removal of Article 165 from the previous law, which stipulated criminal penalties for illegal mining permits and misuse of authority, heightens corruption risks. The prioritization of licenses to certain entities, such as religious organizations and universities, without competitive bidding processes, further fuels concerns about influence-peddling and bribery. These issues collectively create a system where the mechanisms intended for public welfare are often subverted by powerful interests, leading to “unbridled exploitation” and practices akin to “crony capitalism”³³.

Islamic Legal Framework and Maqasid al-Sharia

³⁰ “Mining Regulatory Reform under the Prabowo Government,” HBT, accessed August 20, 2025, <https://www.hbtlaw.com/insights/2025-05/mining-regulatory-reform-under-prabowo-government>.

³¹ Wijayanti et al., “The Integration of Maqasid Sharia Principles on Digital Accounting Information System in Indonesian Islamic Microfinance.”

³² Zico Junius Fernando et al., “Deep Anti-Corruption Blueprint Mining, Mineral, and Coal Sector in Indonesia,” *Cogent Social Sciences* 9, no. 1 (2023): 2187737, <https://doi.org/10.1080/23311886.2023.2187737>.

³³ Muhamad Umar Mai et al., “Indonesian Mining Companies’ Social Responsibility Performance: The Role of Ownership Structure and Sharia Compliance,” *Cogent Business & Management* 11, no. 1 (2024): 2396738, <https://doi.org/10.1080/23311975.2024.2396738>.

Maqasid al-Sharia refers to the objectives, intents, or wisdoms behind Islamic law, fundamentally centered on promoting *masalih al-'ibad* (human welfare) in both this world and the hereafter. It is a grand framework designed to “promote benefits and repel harms”. This framework provides a powerful normative counter-narrative to purely anthropocentric or profit-driven resource exploitation. It establishes an intergenerational equity mandate by emphasizing that natural resources are a trust for all, including future generations. It also implies a multi-dimensional welfare concept, where environmental health, social justice³⁴, and community well-being are not externalities but integral components of *maslahah*. The current Indonesian laws, by focusing on economic output and allowing practices that lead to environmental degradation and social conflict, fundamentally violate this multi-dimensional and intergenerational welfare mandate inherent in Maqasid al-Sharia.

The core objectives of Maqasid al-Sharia are often categorized into the Five Necessities (*Daruriyyat*), fundamental values whose neglect leads to total disruption and chaos. These are:

1. Protection of Religion (*Hifz al-Din*): Safeguarding beliefs, rituals, and the freedom of belief.
2. Protection of Life (*Hifz al-Nafs*): Emphasizing the preservation of human life, securing basic needs like food, marriage, shelter, drinks, and clothing. This directly relates to the health impacts of mining and ensuring communities have access to vital resources.
3. Protection of Mind/Intellect (*Hifz al-'Aql*): Preserving the human mind from disabling influences and promoting learning and critical thinking.
4. Protection of Lineage/Offspring (*Hifz al-Nasl*): Ensuring the continuity and purity of human offspring through legitimate means. This connects to the long-term health and social well-being of communities affected by mining.
5. Protection of Wealth (*Hifz al-Mal*): This principle is highly relevant to resource management and encompasses several dimensions:
 - a) Ownership: Allah is the ultimate owner; humans are vicegerents. Islam balances capitalism and communism, accepting individual ownership but within divine guidelines.
 - b) Acquisition and Development: Encouraging lawful earning and wealth development through business, with unused wealth subject to *zakat*.
 - c) Protection from Damage: Prohibiting wasteful destruction, squandering, or harmful consumption of wealth. This extends to natural resources, which are a form of wealth.
 - d) Circulation: Aiming to narrow the gap between rich and poor through equal opportunities and obligatory sharing. This is crucial for equitable resource distribution.
 - e) Value Protection: Ensuring fair valuation and preventing manipulation.

Resource management in Islam is viewed as a trust (*Amanah*) and subject to public ownership (*Milkiyyah 'Ammah*). Humans are designated as *khalifah* (stewards) of the Earth, entrusted by Allah with its care and preservation. This implies a duty to protect and preserve the environment, not exploit it for selfish gains. Resources are seen not as absolute possessions but as trusts requiring ethical and sustainable management³⁵. Natural

³⁴ Adi Syahputra Sirait et al., “Community Service Order Punishment: Alternatives in The Criminal Law System From Maqāṣid al-Sharī'ah Perspective,” *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (2024): 273–96, <https://doi.org/10.19109/nurani.v24i2.24276>.

³⁵ Katie E. Wyer et al., “Ammonia Emissions from Agriculture and Their Contribution to Fine Particulate Matter: A Review of Implications for Human Health,” *Journal of Environmental Management* 323 (December 2022): 116285, <https://doi.org/10.1016/j.jenvman.2022.116285>.

resources, especially abundant minerals like coal, oil, and gas³⁶, are considered public property (milkiyyah ‘ammah). They are for the common benefit of all people, not for particular privileged groups or individuals. The Prophet Muhammad (PBUH) explicitly stated, “The Muslims are partners in three, water, pastures and fire,” a principle extended to abundant minerals. This means individuals and the state are prohibited from possessing them exclusively; they are secured for the benefit of current and future generations. This concept directly challenges the concentration of mining benefits in a few hands and emphasizes equitable distribution.

Maslahah is the ultimate goal of Sharia, ensuring both individual and collective well-being. It is the basis upon which Sharia is founded. Finally, ‘Adl calls for the establishment of justice, elimination of unfairness, and alleviation of privation in all matters, including financial contracts and resource management. Islamic principles emphasize equitable distribution of environmental goods among all communities, irrespective of religion, race, or social group.³⁷

The table below summarizes the key principles of Maqasid al-Sharia and their direct relevance to resource management.

Table 2: Key Principles of Maqasid al-Sharia and their Relevance to Resource Management

Principle Concept /	Definition	Core Relevance to Resource Management	Specific Application
<i>Maslahah</i> (Public Benefit/Interest)	The ultimate goal of Shari’ah; promoting good and preventing harm for humanity in this world and the hereafter.	Overarching objective for all resource policies, ensuring that resource exploitation genuinely benefits the collective.	Prioritizing social and environmental well-being over mere profit; holistic impact assessment.
‘ <i>Adl</i> (Justice)	Establishment of fairness, elimination of unfairness, and alleviation of privation.	Ensuring equitable distribution of resource benefits and burdens among all stakeholders.	Fair licensing processes, transparent revenue sharing, protecting marginalized communities, environmental justice.
<i>Hifẓ al-Mal</i> (Protection of Wealth)	Safeguarding wealth from damage, ensuring its lawful acquisition, development, circulation, and value protection.	Treating natural resources as a form of collective wealth that must be preserved, developed sustainably, and	Preventing wasteful extraction, ensuring reclamation, fair taxation, combating corruption, promoting local

³⁶ Nita Triana and Farah Nuril Izza, “The Perspective of Islamic Law on the Application of the Polluter Pays Principle in Indonesian Environmental Law,” *Al-‘Adalah* 17, no. 2 (2020): 359–82, <https://doi.org/10.24042/adalah.v17i2.8223>.

³⁷ Fahru Azwa Mohd Zain et al., “Integrating Environmental, Social and Governance (ESG) Principles with Maqasid Al-Shariah: A Blueprint for Sustainable Takaful Operations,” *International Journal of Islamic and Middle Eastern Finance and Management* 17, no. 3 (2024): 461–84, <https://doi.org/10.1108/IMEFM-11-2023-0422>.

		distributed equitably.	economic participation.
--	--	------------------------	-------------------------

Critical Evaluation of Current Laws: Minerba Law and its Limitations

The Minerba Law (Law No. 4 of 2009, amended by Law No. 3 of 2020) has been widely criticized for its shortcomings in delivering public welfare, environmental protection, and community rights, despite its stated purpose of supporting downstream processing and implementing constitutional court decisions. The law, in its pursuit of economic “development” primarily through investment and industrialization, has inadvertently created a “developmental paradox.” This paradox highlights that the means of development, such as attracting foreign capital and streamlining permits for large players, can directly contradict the ends of development, which should encompass public welfare, environmental sustainability, and social justice. The current legal framework, by prioritizing investor certainty and large-scale operations, creates a system where the state’s role shifts from a trustee for public welfare to a facilitator of capital accumulation, often at the expense of its own constitutional mandate and the ethical imperatives of Maqasid al-Sharia. The process of its enactment, with amendments approved rapidly and with minimal transparency, further suggests a process driven by specific interests rather than comprehensive public good³⁸.

The law presents heightened corruption risks due to the removal of Article 165, which previously stipulated criminal penalties for illegal mining permits and misuse of authority. This directly undermines the principle of ‘adl (justice) and fair governance. Furthermore, the law is criticized for granting “unrestricted rights to miners” and failing to safeguard community well-being. Indigenous populations, despite their significant numbers (estimated at 40-50 million), lack designated legal status, leading to conflicts over customary lands. The criminalization of obstruction to mining activities under Articles 162 and 164 further suppresses community protests, violating principles of justice and participation. While promoting downstream industrialization, the law reinforces economic dependence on extractive industries, potentially hindering economic diversification and increasing instability. The influx of foreign labor can limit job opportunities for local populations, leading to cultural alienation and exacerbating socioeconomic challenges. This contrasts with Hifz al-Mal’s principle of wealth circulation and equitable distribution. Critically, the law’s formulation process lacked public aspirations and participation, occurring during the COVID-19 pandemic, raising questions about its democratic legitimacy and responsiveness to societal needs³⁹.

The Minerba Law is associated with increased environmental degradation and the safeguarding of violations in mining operations. Enforcement mechanisms are deemed insufficient, leading to widespread deforestation, water contamination, and ecosystem damage, particularly from nickel mining. Persistent environmental disasters are linked to improper application of Environmental Impact Analysis (AMDAL) processes, and many companies fail to meet their responsibilities for environmental rehabilitation, like sea fence⁴⁰. This directly contradicts the amanah (trust) and environmental stewardship principles of Islam.

³⁸ Mustafa Omar Mohammed and Fauziah Md Taib, “Developing Islamic Banking Performance Measures Based on Maqasid Al-Shari’ah Framework: Cases of 24 Selected Banks,” *Journal of Islamic Monetary Economics and Finance* 1, no. 1 (2015): 55–78, <https://doi.org/10.21098/jimf.v1i1.483>.

³⁹ HBT, “Mining Regulatory Reform under the Prabowo Government.”

⁴⁰ Musleh Harry et al., “Sea Fence and Public Policy: Impact on the Welfare of Fishermen Families in Tangerang, Indonesia,” *El-Usrah: Jurnal Hukum Keluarga* 8, no. 1 (2025): 660–77, <https://doi.org/10.22373/65rf2m16>.

Law No. 3 of 2020 controversially guarantees the extension of Contracts of Work (KK) and Coal Mining Concession Work Agreements (PKP2B) into Special Mining Business Licenses (IUPK) for two subsequent 10-year periods. This provision is widely regarded as the most anticipated change in the amendment. This creates significant implications of legal dualism. Critics argue these bypasses public tender processes, benefiting specific entities and raising concerns about political motivation and corruption⁴¹. While framed as strengthening state control (as IUPK theoretically gives the state a higher position), the guaranteed extension allows foreign companies to maintain control over natural resources, which constitutionally should be managed by state-owned enterprises (BUMN) or regional-owned enterprises (BUMD) for national interest and public welfare. This perpetuates a de facto legal dualism where older, more concessionary contracts are maintained under a new name, undermining the spirit of Article 33. Furthermore, the guaranteed extensions, coupled with ambiguous reclamation obligations and administrative-only sanctions, are feared to perpetuate environmental damage. The annulment of the requirement for a reclamation plan before IUPK issuance is particularly problematic⁴².

The table below provides a direct comparison, illustrating the failures of the current law in meeting its stated and implied objectives.

Table 3: Shortcomings of Law No. 3 of 2020 (Minerba Law) vs. Welfare-Oriented Goals

Area of Shortcoming	Specific Provision / Outcome of Law No. 3 / 2020	Contradiction with Constitutional / Islamic Ideals (e.g., Article 33, <i>Maqasid al-Sharia</i> principles)	Impact / Consequence
Public Welfare	Removal of criminal penalties for misuse of authority (Art. 165).	Violates 'Adl (justice) and transparency principles.	Heightened corruption risks in licensing.
Community Rights	"Unrestricted rights to miners"; criminalization of protests (Art. 162, 164).	Undermines <i>Maslahah</i> (public benefit), 'Adl (justice), and <i>Hifz al-Nafs</i> (protection of life).	Reduced community rights, social conflicts, displacement, lack of legal status for indigenous peoples.
Environmental Protection	Automatic permit extensions; removal of size limits; inadequate enforcement.	Violates <i>Amanah</i> (trust / stewardship), <i>Hifz al-Mal</i> (protection of wealth), and <i>Hifz al-Nafs</i> (protection of life).	Increased environmental degradation, water / forest damage, abandoned pits, persistent disasters.

⁴¹ *Environmental Justice – The Core Essence of Islam / EcoMENA*, EcoIslam, January 10, 2025, <https://www.ecomena.org/environmental-justice-islam/>.

⁴² Sri Atin and Mohamad Rokhimawan, "The Grass Roots Curriculum Model in Basic Education through Self-Development Programs," *Jurnal Ilmiah Sekolah Dasar* 8 (June 2024): 350–60, <https://doi.org/10.23887/jisd.v8i2.64488>.

Transparency /Competition	Guaranteed extension of KK / PKP2B to IUPK without auction.	Contradicts ‘ <i>Adl</i> (justice) and principles of fair competition; undermines state control for public good.	Circumvention of public tender, benefits specific entities, perpetuates foreign control, corruption concerns.
Regional Autonomy	Centralization of licensing authority to central government.	Undermines principles of decentralized governance and local community participation.	Diminished regional autonomy, “hyper-regulation,” reduced local oversight.

Applying Maqasid al-Sharia to Mining Governance

Integrating Maqasid al-Sharia into mining governance requires a fundamental paradigm shift from a purely economic-centric model to one that prioritizes holistic welfare, justice, and sustainability. The current laws, despite constitutional mandates, effectively grant “unrestricted rights to miners” and prioritize economic returns. These contrasts sharply with the Maqasid paradigm, where Amanah and Milkiyyah ‘Ammah fundamentally redefine the relationship with natural resources. Resources are a trust from God, not merely commodities to be owned and exploited. This implies a profound shift from a “permission to exploit” model to a “stewardship with accountability” model. Under Maqasid al-Sharia, a mining license is not merely a right granted by the state for profit-making, but a delegation of stewardship over a public trust⁴³. This delegation comes with inherent responsibilities to maintain mizan, ensure maslahah, and uphold ‘adl. Therefore, the licensing framework should embed these responsibilities as primary conditions, with severe consequences for their violation, rather than merely focusing on administrative and financial compliance. This also means that the state, as the primary trustee, has a moral and religious obligation to rigorously oversee and enforce these ethical parameters, not just collect revenue.

Maslahah should be the overarching objective of all mining policies and licensing decisions⁴⁴. This means moving beyond mere profit generation to actively promoting good and preventing harm. Istislah provides flexibility for contemporary challenges like environmental degradation and social equity in mining. It allows for the development of new regulations that serve the public good, even if not explicitly detailed in classical texts, as long as they align with the general spirit of Sharia. Central to this approach are environmental ethics rooted in Tawhid, Khilafah, Mizan, and Amanah. This implies responsible resource use, sustainability, and harmonious coexistence with nature. Mining activities must adhere to strict environmental protection measures, including comprehensive impact assessments, rehabilitation, and pollution control, to preserve the intrinsic value of nature as God’s creation. Wasteful consumption and wanton destruction are explicitly discouraged⁴⁵.

⁴³ Muhammad Shohibul Itmam et al., “Legal Politics of Mining Spatial Planning in Sumenep District: Maqāsid Syarī’ah Overview,” *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 1 (2025): 1–27, <https://doi.org/10.18326/ijtihad.v25i1.1-27>.

⁴⁴ Mohammed and Taib, “Developing Islamic Banking Performance Measures Based on Maqasid Al-Shari’ah Framework.”

⁴⁵ Mohammed and Taib, “Developing Islamic Banking Performance Measures Based on Maqasid Al-Shari’ah Framework.”

Justice in licensing demands several key considerations. Fair distribution is paramount, ensuring that the benefits of mining are distributed equitably among all segments of society, not concentrated in the hands of a few. This aligns with Hifz al-Mal's principle of wealth circulation. This includes prioritizing local companies and Small and Medium Enterprises (SMEs). Transparency in the licensing process is crucial; it must be open to public scrutiny and free from corruption⁴⁶. This directly counters the current issues of influence-peddling and non-competitive permit allocation. Furthermore, accountability is indispensable. Mining companies and government bodies must be held accountable for their social and environmental performance. Strict sanctions for violations, including environmental damage and neglect of community rights, are necessary. This extends to ensuring a "100 percent success rate" in post-mining reclamation⁴⁷. Finally, community participation is vital. Genuine engagement and involvement of local and indigenous communities in mining policy and licensing decisions are crucial. Their rights, especially over customary lands, must be recognized and protected. The concept of hima (protected areas) offers a compelling model for community-based environmental management⁴⁸.

A normative model for welfare-based mining governance, rooted in *Maqasid al-Sharia*, would involve a comprehensive redesign of licensing mechanisms and a reorientation of policy objectives. This represents a shift from reactive damage control to proactive ethical stewardship. The current laws are largely reactive, attempting to manage negative impacts through post-mining reclamation requirements and fines for violations. However, these measures are often insufficient or poorly enforced. In contrast, *Maqasid al-Sharia* emphasizes *maslahah* and *daf' al-mafasid* proactively.⁴⁹ It is about ensuring a "good life" (*hayah al-tayyibah*) and *falah* (welfare).⁵⁰ This means that a *Maqasid*-oriented framework shifts the focus from merely mitigating harm to actively fostering positive social and environmental outcomes from the outset of mining operations. It implies a move from a "license to operate" to a "license to serve" model, where the privilege of resource extraction is contingent upon demonstrable and continuous contribution to the holistic well-being of society and the environment, aligning with the *amanah* and *milkiyyah 'ammah* principles. This proactive ethical stewardship would fundamentally transform how mining projects are conceived, approved, and managed throughout their lifecycle.

Prioritizing *Maslahah* in Permit Allocation is essential. Instead of automatic extensions or non-competitive grants to specific entities like religious organizations and universities, licensing should prioritize entities that demonstrate a clear commitment and capacity to deliver holistic public welfare, including robust environmental protection, genuine community development, and equitable benefit sharing. This could involve *Maqasid*-based social and environmental impact assessments as primary criteria, not just economic projections. Licenses should be viewed as conditional and revocable trusts (*amanah*), subject to rigorous monitoring and immediate revocation if *Maqasid* principles

⁴⁶ Olexandr Prysyazhnyuk et al., "Re-Evaluating The Views in Combating Corruption Criminal Offenses Under Martial Law," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 2 (2024): 285–98, <https://doi.org/10.18592/sjhp.v24i2.14876>.

⁴⁷ Mohammed and Taib, "Developing Islamic Banking Performance Measures Based on Maqasid Al-Shari'ah Framework."

⁴⁸ Ahmad Khotim, "Principles of Ownership and Distribution of Mining Products in the Perspective of Islamic Law: A Historical Review of the Time of the Prophet Muhammad SAW," *Al-Mawaddah: Jurnal Studi Islam dan Hukum Keluarga (Ahwal Al-Syakhsiyyah)* 2, no. 1 (2025): 34–37, <https://doi.org/10.61181/al-mawaddah.V2i1.519>.

⁴⁹ Agung Dwi Sutrisno and Meti Astuti, "Crony Capitalism Practices In Indonesia's Mining Industry: A Critical Study From The Islamic Economic Perspective," *Mukaddimah Jurnal Studi Islam* 9 (December 2024): 252–70.

⁵⁰ "Public Property According to the Hanafi School | Hizb Ut-Tahrir Australia," accessed July 23, 2025, <https://www.hizb-australia.org/2017/03/public-property-according-to-the-hanafi-school/>.

(e.g., *hifẓ al-nafs*, *hifẓ al-mal* through environmental protection and equitable distribution) are violated. The “100 percent success rate” for post-mining reclamation should be strictly enforced with robust penalties, not just administrative ones. Furthermore, community-centric licensing mechanisms should be developed to facilitate and prioritize community-based mining actors, cooperatives, and local enterprises, ensuring their access and benefit from resources. This aligns with the *milkiyyah ‘ammah* principle of resources for all. Where large-scale operations are necessary, a transparent and competitive bidding process must be maintained, with clear criteria that include social and environmental track records, not just financial offers.⁵¹

Islamic legal thought offers significant avenues for sustainable policy innovation. Environmental conservation *fatwas* (religious edicts) can serve as powerful tools to guide human behavior towards sustainable development practices, potentially more effectively than limited bureaucratic capacity. Islamic finance instruments such as green *sukuk* and *waqf* can be leveraged to finance sustainable mining practices, environmental rehabilitation, and community development projects. *Waqf*, with its principles of perpetuity and irrevocability, is particularly suited for long-term environmental and social welfare projects. Moreover, aligning Environmental, Social, and Governance (ESG) principles with *Maqasid al-Sharia* provides a robust framework for ethical finance and responsible business practices in mining. Studies indicate that Sharia compliance has been shown to improve Corporate Social Responsibility (CSR) performance in Indonesian mining companies.⁵²

Bridging Islamic law with constitutional mandates requires a multi-faceted approach involving legislative, institutional, and collaborative reforms. The Minerba Law (Law No. 3 of 2020) needs significant amendments to align with Article 33 of the 1945 Constitution and *Maqasid al-Sharia*. This includes reintroducing robust criminal penalties for environmental damage and misuse of authority, ensuring that the legal framework acts as a deterrent rather than an enabler of harmful practices. The controversial guaranteed extensions for KK and PKP2B into IUPK should be re-evaluated to ensure transparency, competitive bidding, and alignment with the principle that natural resources are for the collective benefit, not perpetual private gain. Furthermore, legislative provisions should explicitly recognize and protect the customary land rights of indigenous communities, ensuring their free, prior, and informed consent for any mining activities on their lands. Government institutions involved in mining governance, particularly the Ministry of Energy and Mineral Resources (MEMR) and environmental agencies, must strengthen their oversight and enforcement capabilities. This requires enhancing inter-agency coordination, improving technical expertise in environmental monitoring and impact assessment, and establishing independent auditing mechanisms. Measures to combat corruption within the licensing process, such as transparent public registries of permits and clear criteria for allocation, are essential. The role of regional governments in overseeing local mining impacts should also be strengthened, reversing the hyper-centralization that has diminished local accountability. Effective welfare-oriented resource management necessitates collaboration among various stakeholders. This includes fostering partnerships between government, mining companies, local communities, civil society organizations, and academic institutions. Islamic organizations and scholars can play a crucial role in disseminating environmental ethics and *Maqasid al-Sharia* principles to both industry and communities, promoting a shared understanding of responsible stewardship. Leveraging Islamic social finance instruments, such as *waqf* and *zakat*, can provide alternative funding mechanisms for environmental rehabilitation, community development, and sustainable livelihood programs in mining-affected areas. This

⁵¹ “What You Need to Know About Indonesia’s Revised Mining Law,” accessed July 23, 2025, <https://jakartaglobe.id/business/what-you-need-to-know-about-indonesias-revised-mining-law>.

⁵² Zuhdi et al., “Islamic Philosophy’s Approach to Environmental Ethics.”

collaborative approach can build trust, facilitate conflict resolution, and ensure that resource management truly serves the holistic well-being of the Indonesian people and their environment.

CONCLUSIONS

Indonesia's mining governance, particularly in the coal sector, stands at a critical juncture, necessitating a profound realignment with both its constitutional ideals and Islamic normative ethics. The historical trajectory of mining regulation reveals a persistent tension between economic exploitation and public welfare, a tension exacerbated by current legislative frameworks that fall short in ensuring justice, environmental protection, and equitable resource distribution. The analysis of Law No. 3 of 2020 highlights significant shortcomings, including heightened corruption risks, environmental degradation, reduced community rights, and a problematic legal dualism that perpetuates the control of resources by a few, often at the expense of the many. *Maqasid al-Sharia* offers a holistic, justice-centered framework that can serve as a robust normative foundation for reconstructing Indonesia's mining governance. By emphasizing principles such as *maslahah*, *'adl*, *hifz al-mal*, *amanah*, and *milkiyyah 'ammah*, Islamic law provides a comprehensive ethical compass. This framework shifts the paradigm from a mere "permission to exploit" to a "stewardship with accountability," demanding that resource extraction actively fosters positive social and environmental outcomes, rather than merely mitigating harm. It inherently mandates intergenerational equity and a multi-dimensional concept of welfare that extends beyond economic indicators to encompass environmental health, social justice, and community well-being.

Future reforms in Indonesia's mining sector should proactively incorporate Islamic legal reasoning. This means redesigning licensing mechanisms to prioritize *maslahah* through transparent, competitive, and community-centric processes, ensuring that licenses are conditional trusts subject to rigorous monitoring and severe penalties for violations. Leveraging Islamic finance instruments and promoting ethical governance aligned with ESG principles can further support sustainable practices. Ultimately, by bridging Islamic ethics with constitutional mandates, Indonesia can forge a path towards inclusive development, robust environmental protection, and truly equitable mining management that serves the long-term prosperity of its people and preserves its natural heritage for future generations.

REFERENCE

- Atin, Sri, and Mohamad Rokhimawan. "The Grass Roots Curriculum Model in Basic Education through Self-Development Programs." *Jurnal Ilmiah Sekolah Dasar* 8 (June 2024): 350–60. <https://doi.org/10.23887/jisd.v8i2.64488>.
- Dwi Sutrisno, Agung, and Meti Astuti. "Crony Capitalism Practices In Indonesia's Mining Industry: A Critical Study From The Islamic Economic Perspective." *Mukaddimah Jurnal Studi Islam* 9 (December 2024): 252–70.
- Environmental Justice – The Core Essence of Islam* | EcoMENA. EcoIslam. January 10, 2025. <https://www.ecomena.org/environmental-justice-islam/>.

- Fernando, Zico Junius, Beni Kurnia Illahi, Yagie Sagita Putra, and Ikhbal Gusri. "Deep Anti-Corruption Blueprint Mining, Mineral, and Coal Sector in Indonesia." *Cogent Social Sciences* 9, no. 1 (2023): 2187737. <https://doi.org/10.1080/23311886.2023.2187737>.
- Hamzah, Hamzah, Irfan Amir, Sultan Hasanuddin, Tarmizi Tarmizi, and Muhammad Fazlurrahman Syarif. "Sustainable Development of Mangrove Ecosystem Policy in South Sulawesi from the Perspectives of Siyāsah and Fiqh Al-Bi'ah." *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (2023): 367–80. <https://doi.org/10.31958/juris.v22i2.10559>.
- Harry, Musleh, Fakhrudin Fakhrudin, Ahmad Wahidi, Nur Jannani, and Meisy Fajari. "Sea Fence and Public Policy: Impact on the Welfare of Fishermen Families in Tangerang, Indonesia." *El-Usrah: Jurnal Hukum Keluarga* 8, no. 1 (2025): 660–77. <https://doi.org/10.22373/65rf2m16>.
- HBT. "Mining Regulatory Reform under the Prabowo Government." Accessed August 20, 2025. <https://www.hbtlaw.com/insights/2025-05/mining-regulatory-reform-under-prabowo-government>.
- Herry, Musleh. "Penataan Kewenangan Pemerintah Daerah Bidang Pertanahan Di Masa Mendatang." *De Jure: Jurnal Hukum Dan Syariah* 6, no. 1 (2014). <https://doi.org/10.18860/j-fsh.v6i1.3194>.
- <https://www.nortonrosefulbright.com/en/knowledge/publications/b545e479/indonesia-amends-the-mining-law>. "Indonesia Amends the Mining Law." Accessed June 20, 2025. <https://www.nortonrosefulbright.com/en/knowledge/publications/b545e479/indonesia-amends-the-mining-law>.
- Itmam, Muhammad Shohibul, Sirajul Munir, Lukman Santoso, Taufikin, and Abdelmalek Aouich. "Legal Politics of Mining Spatial Planning in Sumenep District: Maqāṣid Syarī'ah Overview." *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 1 (2025): 1–27. <https://doi.org/10.18326/ijtihad.v25i1.1-27>.
- Kadaryanto, Bagio, Ardian Kurniawan, and Burhanuddin Burhanuddin. "Reconstruction of Indigenous Community Inclusion in Village Autonomy Policy: Towards a Substantive Autonomy Model in Indonesia." *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 1 (2025): 1–19. <https://doi.org/10.30631/alrisalah.v25i1.1845>.
- Kayadibi, Saim. "The State as an Essential Value (Ḍarūriyyāt) of the Maqāṣid Al-Sharī'ah." *AHKAM: Jurnal Ilmu Syariah* 19, no. 1 (2019). <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/6256>.
- Khotim, Ahmad. "Principles of Ownership and Distribution of Mining Products in the Perspective of Islamic Law: A Historical Review of the Time of the Prophet Muhammad SAW." *Al-Mawaddah: Jurnal Studi Islam dan Hukum Keluarga (Abwal Al-Syakhsiyah)* 2, no. 1 (2025): 34–37. <https://doi.org/10.61181/al-mawaddah.V2i1.519>.

- Klongrua, Silanee, Khairil Umuri, and Muftahuddin Muftahuddin. "Maqasid Al-Shariah and Environmental Sustainability: An Islamic Economic Perspective." *International Journal of Kita Kreatif* 2 (February 2025). <https://doi.org/10.24815/ijkk.v2i1.44790>.
- Mohamad, Abdul Basir, and Nurbazla Ismail. "Environmental Preservation and Water Pollution from the Islamic Perspective." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 997–1015. <https://doi.org/10.22373/sjhk.v7i2.16019>.
- Mohammed, Mustafa Omar, and Fauziah Md Taib. "Developing Islamic Banking Performance Measures Based on Maqasid Al-Shari'ah Framework: Cases of 24 Selected Banks." *Journal of Islamic Monetary Economics and Finance* 1, no. 1 (2015): 55–78. <https://doi.org/10.21098/jimf.v1i1.483>.
- Mohd Zain, Fahru Azwa, Siti Fariha Muhamad, Hamdy Abdullah, Sheikh Ahmad Faiz Sheikh Ahmad Tajuddin, and Wan Amalina Wan Abdullah. "Integrating Environmental, Social and Governance (ESG) Principles with Maqasid Al-Shariah: A Blueprint for Sustainable Takaful Operations." *International Journal of Islamic and Middle Eastern Finance and Management* 17, no. 3 (2024): 461–84. <https://doi.org/10.1108/IMEFM-11-2023-0422>.
- Mufid, Moh. "Fikih Konservasi Laut: Relevansi Fiqh al-Bi'ah Di Wilayah Pesisir Lamongan." *Al-Manahij: Jurnal Kajian Hukum Islam* 12, no. 1 (2018): 1–16. <https://doi.org/10.24090/mnh.v12i1.1356>.
- Muhtarom, Ali, and Yuli Sutoto Nugroho. "Grants as a Model of Inheritance Prospective Distribution in the Coastal Santri Community." *Al-Ahkam* 32, no. 2 (2022): 169–88. <https://doi.org/10.21580/ahkam.2022.32.2.12557>.
- Mun'im, Zainul, Wahfiuddin Rahmad Harahap, Rona Putra, Budhi Santoso, and Muhammad Viegri. "'Ulamā', Authority, and Political Relations: How the PCNU Jember Fatwā Influenced Public Policy on Gold Mining in Silo?" *Journal of Islamic Law* 6, no. 1 (2025): 46–66. <https://doi.org/10.24260/jil.v6i1.3605>.
- Prysyazhnyuk, Olexandr, Yuriy Shovkun, Maksym Korniienko, Yevhen Pashchenko, and Nana Charles Nguindip. "Re-Evaluating The Views in Combating Corruption Criminal Offenses Under Martial Law." *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 2 (2024): 285–98. <https://doi.org/10.18592/sjhp.v24i2.14876>.
- ptar2022. "History of Indonesian Gold Mining, Evolving in Colonialism Era." *Agincourt Resources*, February 13, 2023. <https://agincourtresources.com/2023/02/13/history-of-indonesian-gold-mining-evolving-in-colonialism-era/>.
- "Public Property According to the Hanafi School | Hizb Ut-Tahrir Australia." Accessed July 23, 2025. <https://www.hizb-australia.org/2017/03/public-property-according-to-the-hanafi-school/>.
- Rohman, Moh, Nashrul Mu'minin, and Ibrahim Mas'ud. "Methodological Reasoning Finds Law Using Normative Studies (Theory, Approach, and Analysis of Legal Materials)." *MAQASIDI Jurnal Syariah Dan Hukum* 4 (December 2024): 204–21. <https://doi.org/10.47498/maqasidi>.

- Rutland, Peter. "Resource Nationalism: Risks and Rewards." In *Handbook of Economic Nationalism*. Edward Elgar Publishing, 2022. <https://www.elgaronline.com/edcollchap/book/9781789909043/book-part-9781789909043-17.xml>.
- Scribd. "Normative Legal Research | PDF | Data | Analysis." Accessed August 19, 2025. <https://www.scribd.com/presentation/452387689/NORMATIVE-LEGAL-RESEARCH-pptx>.
- Sirait, Adi Syahputra, Mhd Syahnan, and Budi Sastra Panjaitan. "Community Service Order Punishment: Alternatives in The Criminal Law System From Maqāṣid al-Sharī'ah Perspective." *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (2024): 273–96. <https://doi.org/10.19109/nurani.v24i2.24276>.
- Supriyadi, Aditya Prastian, Dwi Fidhayanti, Ramadhita Ramadhita, and Mohd Shahid bin Mohd Noh. "Green Sukuk in Indonesia: Unraveling Legal Frameworks for Sustainable Islamic Bonds." *El-Mashlahah* 13, no. 2 (2023): 151–80. <https://doi.org/10.23971/el-mashlahah.v13i2.7372>.
- Triana, Nita, and Farah Nuril Izza. "The Perspective of Islamic Law on the Application of the Polluter Pays Principle in Indonesian Environmental Law." *Al-'Adalah* 17, no. 2 (2020): 359–82. <https://doi.org/10.24042/adalah.v17i2.8223>.
- Umar Mai, Muhamad, Mochamad Edman Syarief, Iwan Setiawan, et al. "Indonesian Mining Companies' Social Responsibility Performance: The Role of Ownership Structure and Sharia Compliance." *Cogent Business & Management* 11, no. 1 (2024): 2396738. <https://doi.org/10.1080/23311975.2024.2396738>.
- violations, Indonesia's parliament has passed a mining bill that activists say will lead to unbridled exploitation by a mining industry that already operates with impunity over environmental and social, The new law removes a limit on the size of mining operations and allows automatic permit extensions up to 20 years, villagers and others for greater reforms Critics say the law effectively echoes the talking points of the mining industry while shutting out longstanding demands from civil society groups, and The bill failed to pass last year in the face of massive street protests; lawmakers have been accused of exploiting the current period of social distancing restrictions to pass it largely unopposed. "With New Law, Indonesia Gives Miners More Power and Fewer Obligations." *Environmental News. Mongabay Environmental News*, May 13, 2020. <https://news.mongabay.com/2020/05/indonesia-mining-law-minerba-environment-pollution-coal/>.
- Wahyuni, Elvie. "Penyelesaian Sengketa Lingkungan Hidup Di Luar Pengadilan." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 4, no. 2 (2009): 275–92. <https://doi.org/10.19105/al-lhkam.v4i2.277>.
- Webster, Timothy. "Disaggregating Corporate Liability: Japanese Multinationals and World War II." *Stanford Journal of International Law* 56 (2020): 175.
- "What You Need to Know About Indonesia's Revised Mining Law." Accessed July 23, 2025. <https://jakartaglobe.id/business/what-you-need-to-know-about-indonesias-revised-mining-law>.

- Widiarti, Wulan, Fauzie Yusuf Hasibu, and Tubagus Achmad Darodjat. "Management and Exploitation Of Mineral and Coal Mining In Indonesia: An Analysis Of the Perspective Of Article 33 Paragraph (3) of The 1945 Constitution Republic Of Indonesia." *Journal Evidence Of Law* 4, no. 1 (2025): 111–15. <https://doi.org/10.59066/jel.v4i1.1055>.
- Wijayanti, Provita, Intan Salwani Mohamed, Dalila Daud, Hani Werdi Apriyanti, M. Ja'far Shodiq, and Arifathul Khoiriyah. "The Integration of Maqasid Sharia Principles on Digital Accounting Information System in Indonesian Islamic Microfinance." *Journal of Islamic Accounting and Finance Research* 7, no. 1 (2025): 107–26. <https://doi.org/10.21580/jiafr.2025.7.1.25345>.
- Wyer, Katie E., David B. Kelleghan, Victoria Blanes-Vidal, Günther Schauburger, and Thomas P. Curran. "Ammonia Emissions from Agriculture and Their Contribution to Fine Particulate Matter: A Review of Implications for Human Health." *Journal of Environmental Management* 323 (December 2022): 116285. <https://doi.org/10.1016/j.jenvman.2022.116285>.
- Zuhdi, Ahmad, M. Bilhaq, and Lusiana Putri. "Islamic Philosophy's Approach to Environmental Ethics: An Analysis of the Teachings of the Qur'an and Hadith." *Journal of Noesantara Islamic Studies* 1 (October 2024): 198–213. <https://doi.org/10.70177/jnis.v1i4.1392>.