***Maslahah Mursalah* on the Mining Concessions of Religious Community Organizations**

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**ABSTRACT:** *This research will analyze Indonesian religious community organizations’ readiness and capability to become responsible for effectively and sustainably managing mines. This analysis employed Howells’ intermediation theory and Provan and Kenis’ organization network management theory. It also employed the* maslahah mursalah *and legal analyses on research materials with normative characteristics based on the conceptual and statute approaches. It was found that religious community organizations argue that they should take the government’s offer of mining concessions as it will facilitate their goals of bringing welfare to society. However, the mining industry leads to environmental damage and it is ironic for such organizations to participate in actively carrying out destruction for profit. The issue of religious community organizations obtaining mining business permits is not only a regulatory issue, but also regards their lack of experience in this sector, which may lead to new issues in the legal, social, and economic sectors. In conclusion, based on the* maslahah mursalah *analysis, religious community organizations’ management of mines will lead to many* mafsadat *(harm), especially due to the fact that religious community organizations that should actively criticize the extractive industry ironically become active players. Thus, religious community organizations that voice ethics will lose their legitimacy.*

**Keywords:** Maslahah mursalah, *mining concession, religious community organization, Indonesia.*

**ABSTRAK:** Penelitian ini akan menganalisis kesiapan dan kemampuan organisasi masyarakat (ormas) keagaamaan di Indonesia dalam mengelola tambang secara efektif dan berkelanjutan. Penelitian ini menggunakan teori intermediasi dari Howell dan teori manajemen jaringan organisasi dari Provan dan Kenis. Ia juga menggunakan analisis hukum dan *maslahah mursalah* terhadap bahan penelitian dengan karakteristik normatif berdasarkan pendekatan konseptual dan perundang-undangan. Ditemukan bahwa ormas berargumen bahwa mereka sebaiknya mengambil tawaran pemerintah akan konsesi tambang untuk memfasilitasi tujuan mereka dalam meningkatkan kesejahteraan masyarakat. Akan tetapi, industri pertambangan mengakibatkan kerusakan lingkungan dan akan menjadi sebuah ironi apabila ormas berpartisipasi aktif dalam melakukan kerusakan demi keuntungan. Permasalahan ormas mendapatkan izin usaha pertambangan bukan hanya permasalahan peraturan, namun juga meliputi kurangnya pengalaman mereka dalam bidang tersebut, yang mungkin akan menimbulkan masalah-masalah baru dalam bidang hukum, sosial, dan ekonomi. Kesimpulannya, berdasarkan analisis *maslahah mursalah*, jika ormas keagamaan mengelola tambang, hal ini akan mengakibatkan banyak *mafsadat* (keburukan)*,* terutama karena ormas keagamaan yang seharusnya mengkritik industri ekstraktif malah menjadi pemain aktif. Maka dari itu, ormas keagamaan yang seharusnya menyuarakan etika akan kehilangan legitimasi mereka.

**Kata Kunci:** *Maslahah mursalah*, konsesi tambang, ormas keagamaan, *Indonesia.*

1. **INTRODUCTION**

Through the application of the Republic of Indonesia’s Governmental Regulation No. 25 of 2024 on the Amendment of the Governmental Regulation No. 96 of 2021 on the Implementation of Coal and Mineral Mining Business Activities, charity enterprises that every religious community organization will obtain special mining business permits or what is locally known as *izin usaha pertambangan khusus* in special mining business permit areas (Listiyani & Nopliardy, 2017). The application of that Governmental Regulation leads to the emergence of various debates in society concerning religious community organizations that are essentially community organizations focusing on running their role in developing a society based on spiritual and moral values. However, along with the increasing need to adapt to a more extensive socio-economic context, some religious community organizations obtain new opportunities to widen their impacts by becoming involved in natural resource management (Fitrah, 2024).

This step has the objective of increasing society’s welfare. However, this policy leads to the emergence of varied responses, both positive and negative. The supporters of this policy believe that religious community organizations’ involvement will bring positive impacts to the local economy and welfare of the religious community. On the contrary, critiques focus on the potential risks and challenges that religious community organizations may face in managing mines, including technical, operational, and environmental issues. The main issue that becomes the focus of this discussion is the religious community organizations’ readiness and capability to face challenges and guarantee effective and sustainable mining management.

This issue arises amidst the situation where the mining industry currently faces a serious legitimacy crisis and is often opposed by society due to the destructive impacts it creates. Many communities around mining areas experience their negative impacts, starting from health disorders, and social injustice, to significant environmental destruction. Meanwhile, the great profits generated from this industry are often only enjoyed by certain individuals or elite groups, leaving the majority of society bearing the burden of the harm it causes.

Critiques of the mining industry strengthen along with society’s increasing awareness of the negative impacts it causes. The air and water pollution it generates not only damage the local ecosystem but also threatens public health, especially endangering vulnerable groups such as children and the elderly. Injustice is also clearly seen in the division of economic benefits as the income generated from the mining industry is seldom reallocated for the welfare of the local society. On the contrary, they are channeled to the pockets of capital owners and corrupt state officials.

Environmental destruction caused by mining activities, such as deforestation and river pollution, not only harms the current society but also threatens the survival of future generations. Ecological losses are often irreversible, leaving an inheritance of destruction in areas which were priorly fertile and rich in biodiversity. Globally, there have been many documents which show that mining activities in the last few decades have polluted water and soil. They have also significantly consumed water resources, leading to the loss of biodiversity and changes in the local water processing system (Sosa et al., 2017).

In response to this, communities surrounding mining activity locations have demanded, through protests and collaborations with transnational and local non-governmental organizations, that mining companies and the government take a greater portion of accountability to prevent and/or decrease their negative impacts (Adam et al., 2021). In several cases, these changes have increased the creation of policies and movements to achieve sustainable mining (Fraser, 2021a). Meanwhile, in other cases, issues such as an imbalance of power among stakeholders create unjust results, frequently triggering conflicts in society and between stakeholders (Arellano-Yanguas, 2011).

The issue in this case is the question of why religious community organizations must manage mines just like companies, state-owned business enterprises, or private-owned business enterprises that legitimately have the authority to carry out these activities. Moreover, their status as religious community organizations shows that they are non-profit institutions that do not orient towards business activities, unlike companies. According to the law, mining activities have economic characteristics and are implemented by parties who have fulfilled the determined requirements in the law, such as mining companies, cooperatives, private companies, and regional community-owned mining business groups (Astinda et al., 2024). In Indonesia, NU (Nahdlatul Ulama, Indonesia’s largest Islamic community organization) and Muhammadiyah (Indonesia’s second-largest Islamic community organization) are community organizations which have obtained mining concessions. Thus, this research will analyze religious community organizations’ readiness and capability to face challenges and become responsible for effectively and sustainably managing mines.

1. **METHOD**

This research analyzed the potential of religious community organizations’ roles in sustainably managing mines. Even though Muhammadiyah is currently still at the preparation stage to manage its newly obtained mining concession, the prospective role of this organization as a mediator needs to be analyzed to guarantee responsible and sustainable management in the future. This analysis employed the framework of Howells’ intermediation theory as a basis (Howells, 2006). Then, to enrich the understanding and integrate the models of organization network management, the authors used the theory of Provan and Kenis (2008). Howells defines intermediation as a process where mediating actors facilitate interaction and negotiation between key actors in a system. In this research, the authors employed the *maslahah mursalah* and legal analyses, starting from analyzing the main legal materials and supporting legal materials with normative characteristics based on the conceptual and statute approaches (Ishaq, 2017). It involved a profound analysis of relevant legal dogmas with the aim of obtaining a comprehensive understanding of the analyzed legal issue (Djulaeka & Rahayu, 2020).

**III. RESULT AND DISCUSSION**

**The Mining Concession of Religious Community Organizations**

The economic benefit that the government gives to religious community organizations in this regulation must be accompanied by detailed regulations on the supervision of the mining process to prevent the impacts of such mining activities. Even though this regulation will bring economic benefits to religious community organizations which obtained the permit to carry out mining activities, the negative impacts that may occur due to the existence of this permit greatly outweigh the benefits (Rahman et al., 2023). It is a fact that political factors may result in impacts of environmental damage if the existing political systems and policies do not position the environment as a unified entity in the government’s political steps and decision-making process. Thus, the environment is merely deemed an object or resource to yield mere economic growth (Agussalim et al., 2023).

So far, Indonesian religious community organizations focus on social, educational, and religious issues. However, the issuing of Governmental Regulation No. 25 of 2024 gives religious community organizations the opportunity to start becoming involved in the economic sector, such as mine management. The opportunity that the Governmental Regulation No. 25 of 2024 gives in the form of mining management provision started to trigger debates among the general society, academicians, as well as members of various religious community organizations. There are at least several religious community organizations that have rejected the government’s offer, namely KWI (*Konfrensi Waligereja Indonesia/*Indonesian Bishops' Conference), PKMRI (*Perhimpunan Mahasiswa Katolik Republik Indonesia/*Catholic Student Association of the Republic of Indonesia), HKBP (*Huria Kristen Batak Protestan/*Batak Protestant Christian Church), and PGI (*Persatuan Gereja Indonesia/*Indonesian Church Union) (Diahwahyuningtyas & Nugroho, 2024). Meanwhile, Nahdlatul Ulama (NU) which was represented by the *Nahdlatul Ulama* Central Board and Muhammadiyah accepted the mining concession for several reasons as shown in Table 1 below:

**Table 1. Muhammadiyah and ’s Reasons**

**for Accepting Mining Concessions**

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| --- | --- |
| **Religious Community Organization** | **Reasons for Accepting Mining Concessions** |
| Muhammadiyah | 1. It is in line with Articles of Association Article 7 clause 1 which states to achieve Muhammadiyah’s objectives and goals to implement *amar ma'ruf nahi munkar* (encouraging good and preventing harm) and *tajdid* (renewal) that is manifested in all aspects of life. 2. To strengthen *da’wa* (Islamic missionary activities) in theeconomic sector, apart from *da’wa* in education, health, social welfare, *tabligh* (the promotion of Islamic teachings)*,* and other *da’wa* sectors. 3. Article 33 of the Republic of Indonesia’s 1945 Constitution states that the earth, water, and natural resources therein are under the control of the state and are maximally used for social welfare. The government as the state establisher gives Muhammadiyah the opportunity to manage mines for independence and social welfare. 4. This organization will carry out maximum efforts by involving professionals from among its cadres, the members of the association, communities surrounding the mining areas, and several technologies that minimize environmental destruction as well as synergize with universities. 5. It will cooperate with partners that are experienced in managing mines, and who have high commitment and integrity to the community and associations through mutually beneficial cooperation agreements. 6. It is carried out within a certain time frame by still supporting and continuing efforts to support sustainable energy sources as well as develop a clean and environmentally friendly living culture, followed by monitoring, evaluation, and assessment of benefit (*maslahah*) and harm (*mafsadat*) or damage to society. 7. If the mining management brings many *mafsadat*, Muhammadiyah will responsibly return the mining business permit to the government (Anardianto, 2024). |
| Nahdlatul Ulama | 1. It will extend the utilization of natural resources that are under the power of the state for societal benefit in a more direct manner. 2. The government’s act in granting mining permits for religious community organizations is a responsibility that must maximally be carried out so that the noble causes of that policy may truly be achieved. 3. NU is ready with its capable human resources, complete organizational apparatuses, and a rather strong business network to carry out such tasks and responsibilities. 4. NU has also prepared business infrastructures to manage its responsibility and its management is transparently and professionally carried out (Patoni, 2024). |

The debate on whether or not religious community organizations should manage mines must be analyzed based on the benefit and harm principle (Surya & Suryawan, 2024). This is because mine management cannot be perceived from mere business perspectives. Religious community organizations that obtain permits to manage mines are also experiencing a dilemma. This is because if they accept it, it will lead to the emergence of internal and external debates. However, if they reject it, these mines may potentially be managed by irresponsible people who cannot guarantee greater benefit for the wider society. Therefore, religious community organizations that have obtained permits must carry out comprehensive evaluations to see how far the mines that they will manage impact society (Kurniawan et al., 2023).

The government hopes that by giving mining concessions to religious community organizations, it may fix the legitimacy crisis of this industry. It is hoped that religious community organizations may become a protector of the mining industry from societal opposition. This policy may potentially change mining conflicts which previously had structural characteristics, and transform them into horizontal conflicts between community groups. It also seems that this policy is only used as an alibi, considering that religious community organizations do not have the capability to manage mines. Doesn’t religion teach us that if an affair is not given to the experts, then just wait for its demise? Then, in the end, religious community organizations will cooperate with capital owners to manage mines and only the same groups will profit of it.

Apart from damaging the environment, this policy may also potentially trigger internal conflicts within these religious community organizations. There is a concern that this policy may increase conflicts between religious community organizations’ elites. This tension may occur due to the fight for power and profits produced from the mining concession, considering that this industry is highly tempting due to its high profits. Therefore, it is not only the wider society that will experience negative impacts from this. However, the internal stability of these religious community organizations may also be threatened. An impact of mines includes pollution, that is the release of various elements, components, and waste products containing various hazardous substances to the natural environment in large amounts that will disturb or damage its capability to support the ecosystem (Raj & Das, 2023). The state and the government demand companies to give a guarantee of large-scale reclamation, which is a highly accurate step. Thus, it is hoped that post-mining land may refunction to relieve its productive, ecological, and social functions (Wasis, 2024).

It is a contradiction if religious community organizations that should ideally be active in criticizing extractive industries ironically become involved as active players in these industries. Religious community organizations which were previously vocal in demanding ethics will lose their legitimacy if they participate as actors of destruction. The discussion on environmental *fiqh* (knowledge of the practical Sharia rulings) and sustainable energy *fiqh* will become a joke. Religious teachings that orient towards benefit (*maslahah*) no longer become relevant if religion participates in an industry that is often opposed due to the injustice that it brings. The values of religious teachings will immediately fall due to the acts of greedy individuals. If the government argue that the reason for this mining concession enactment is that it is a form of care towards religious community organizations, there is no need to encourage them to be involved in destructive activities.

Religious community organizations should not be too lustful in accepting this offer. They should ideally maintain their moral imperatives by protecting the environment and supporting communities that become victims of injustice. Being involved in destructive activities will certainly violate the values that they embrace while damaging public trust (Awaludin, 2024).

Mining activities such as discovery, exploration, construction, operation, maintenance, expansion, negligence, termination of operation, and reusage of mines may both directly and indirectly influence the social environmental systems in various positive and negative ways. The mining industry may generate various benefits to society while also causing conflicts, especially related to the use of land over and under the surface (Haddaway et al., 2019). Mining activities are an integral part of societal development. However, there needs to be corrective actions that are supported by accurate post-closing management strategies to mitigate social and environmental issues as an impact of mines. By managing environmental impacts, the sustainability of long-term mining operations may be guaranteed, which will in turn resolve social issues (Singh et al., 2016).

The Indonesian Association of Mining Experts (*Perhimpunan Ahli Pertambangan Indonesia*/Perhapi) delivered several important aspects that must be considered before religious community organizations start to manage mines. For instance, there must be a priority over structural readiness and the existence of competent managers in the mining sector (Saputra, n.d.).

**The Impact of Mines in Creating Environmental Damages**

Indonesia is placed on the list of the ten countries in the world with the largest substantial nickel, gold, copper, tin, and bauxite reserves. With an assumption of a stable level of production, it is anticipated that this mineral reserve will last from the period of ten to forty-seven years (Wahyono et al., 2024). There are almost no mines in Indonesia that do not bring negative impacts or damage to the environment after their exploitation. In this context, religious community organizations should ideally be present to encourage environmental sustainability. They have the position to guide and even advocate for victims of mining practices that are negligent towards environmental preservation.

Even though it is clear that mining has changed the economic sector, it has also brought negative impacts on the environment and, up to a certain level, the society. Some of the negative impacts of the mining sector include the loss of vegetation cover; mass destruction of water bodies; the loss of biodiversity; changes in land usage; food vulnerability; the increase in social crimes and conflicts; the high living cost, as well as air pollution (Worlanyo & Jiangfeng, 2020). Conventional mining methods pose highly negative social and environmental impacts. During the mining stage, sustainable mining activities encompass social responsibility, environmental management, and economic continuity (Ramana et al., 2024). Deforestation and the loss of habitat not only regard the loss of several plants and animals but also mean the loss of human beings’ survival that depend on them (Bodo et al., 2021).

Coal burning in steam-powered generators and diesel-powered mining vehicles is responsible for the release of carbon dioxide emissions (Paraschiv & Paraschiv, 2020; Suherman & Saleh, 2018; Wahyono et al., 2021). They are also responsible for the release of other greenhouse gases into the Earth’s atmosphere, leading to the reflection of infrared energy from the sun back to the Earth’s surface, creating global warming (Letcher, 2020; Wahyono et al., 2020). Further, their consequences include the gradual melting of ice in the polar regions, leading to an increase in the seawater surface and global climate changes (Bordbar et al., 2023; Hauschild et al., 2018; Khosravi et al., 2022).

The issuing of mining concessions by the regional government has also caused the emergence of forest fires and deforestation, which has created opportunities for new economic businesses and residential housing development for the surrounding society. The state is fully responsible for environmental damage as this clearly shows that there is a link between development activities and environmental destruction (Sari & Awiati, 2024).

Indonesia is a legal state that has the goal of increasing its people’s welfare, even though in practice, it is often faced with issues. Among the legal issues that often occur is the issue of environmental destruction. Then, there are various environmental issues that happen in Indonesia, such as forest destruction; river and watershed pollution; coral reef damage; sea pollution; as well as land destruction due to illegal mining (Absori et al., 2023; Budiono et al., 2024).

**Opinions Against Mining Concessions for Religious Community Organizations**

In the last few decades, the international mining industry has faced stricter international monitoring of its activities and the social, economic, and environmental impacts of mining on the affected communities. Both national and international laws have increased the regulations that govern society’s rights in the decision-making related to mining and the obligations of mining companies over those communities. Apart from that, corporate social responsibility guidelines have gradually focused on the good relationship between mining companies and impacted societies (Ubink & Pickering, 2024). Mining companies may develop partnerships that increase business profits while simultaneously increasing the socio-economic conditions of the concerned communities (Fraser, 2021b). It is important to understand the transformation of the traditional legal system by comparing the customary and modern legal systems to see how their interactions influence social, political, and economic dynamics at the local, national, and international levels. As a bridge between the past and the future, a deep understanding of this transformation process is crucial to preserving legal diversity, respecting the human rights, as well as promoting justice amidst the complex challenges of globalization (Triasmono & Ruslie, 2024). Through the application of principles or regulations, the law may act as a tool of social engineering for the sustainability of society’s activity direction that is desired in development (Balqis, 2023).

This regulatory conflict may be read through the misalignment between Law No. 3 of 2020 and Governmental Regulation No. 25 of 2024. Law No. 4 of 2009 on Mineral and Coal Mining and its amendment on Law No. 3 of 2020, which explicitly regulate that mining business permits are given to business entities, cooperatives, or individuals. There is no explicit mention that religious community organizations are categorized as entities that have the right to obtain mining business permits. If the government gives religious community organizations mining business permits, there may be an indication that it violates the legal formal principle. This mining concession portion also gives an image that the government and religious community organizations are trying to carry out law-violating actions by violating stipulations governed by the law.

Article 5 of Law No. 17 of 2013 also explains that the objective of religious community organizations is indirectly related to economic activities with commercial characteristics, such as mining management. Giving mining concessions to religious community organizations is deemed to violate the essence and functions of these organizations as regulated in the law. Article 5 clearly regulates that the creation of religious community organizations is hoped to become a vessel of the societal environment in various aspects of life, such as the social, economic, cultural, and environmental aspects.

Apart from that, religious community organizations’ lack of experience in managing mines may potentially cause complex issues. The issue of religious community organizations obtaining mining concessions is not only a regulatory issue, but also regards their lack of experience in this sector, which may lead to new issues in the legal, social, and economic sectors. Even though the government argues that it grants mining business permits to religious community organizations to achieve economic justice, if regulatory and conflict potential analyses show that such an action cannot yet yield profitable results, it will make religious community organizations face greater issues in the future (Rachman & Tunggari, 2024).

The Advocacy Team of Mine Rejection consists of various figures, academicians, and some non-governmental organizations, filed a request for judicial review to the Republic of Indonesia’s Supreme Court concerning Governmental Regulation No. 25 of 2024 on the Granting of Mining Business Permits to Religious Community Organizations on Tuesday, October 1st, 2024. The six institutions that filed for material review request comprise the Naladwipa Institute for Social and Cultural Studies, the National Mining Advocacy Network Association (*Perkumpulan Jaringan Advokasi Tambang*/JATAM), Women’s Solidarity Union, JATAM of Central Sulawesi, Trend Asia, and the National Environmental Medium Foundation (*Yayasan Wahana Lingkungan Hidup*/WALHI) (Mahendra et al., 2024). Table 2 shows the reasons for their disagreement with the government’s policy to give mining concessions to religious community organizations.

**Table 2. Reasons for Various Institutions’ Disagreement of Mining Concessions**

**for Religious Community Organizations**

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| **Institution** | **Reasons for Disagreement of Mining Concessions for Religious Community Organizations** |
| The Mining Advocacy Network Association (*Perkumpulan Jaringan Advokasi Tambang*/JATAM) | 1. According to the Law on Coal and Minerals, offers for mining concessions are only given when state-owned and regional government-owned business enterprises are not interested in such a business. It is then that these offers are given to private entities through an auction process. 2. Religious community organizations are deemed to not have the capacity to manage mines. 3. Referring to the Law on Coal and Minerals, religious community organizations are not included as a party that obtains priority offers. 4. This policy may accelerate the expansion of mining areas, bringing negative impacts to society and the environment. 5. The mining management will not improve and become more sustainable if religious community organizations are involved in its management. 6. It is an effort to “tame” religious community organizations so that they do not resist governmental policies. |
| The Archipelago’s Indigenous Community (*Masyarakat Adat Nusantara*/AMAN) | Such a policy may result in horizontal conflicts between religious community organizations and indigenous communities. |
| Environmental Medium Foundation (*Yayasan Wahana Lingkungan Hidup*/WALHI) | 1. The government’s efforts to legalize religious community organizations may actually potentially damage the image of the institution in the community. 2. It seems that the government is making religious community organizations a bumper to ease mining projects in Indonesia. |
| The Indonesian Foundation of Legal Aid (*Yayasan Lembaga Bantuan Hukum Indonesia*/YLBHI) | The regulation on mining legalization of religious community organizations is a form of co-optation practice carried out by the government or rulers. |
| Madania Harmonious Partner (*Harmoni Mitra Madania*) | It regulates the independence of religious community organizations. Religious community organizations will lose their critical rationale due to feeling disinclined by the government, which is an apocalypse for those organizations. |
| KONTRAS | 1. It is a form of the government’s control over religious community organizations. 2. It will lead to a conflict of commitments between religious community organizations in manifesting ecological justice when given an offer by the government to manage coal mine business permits. |
| The Executive Director of the Center for Legal and Policy Studies Indonesia (*Direktur Eksekutif Pusat Studi Hukum dan Kebijakan Indonesia*/PSHK) | Religious community organizations should not outright accept the government’s offer to manage mines. |

***Maslahah Mursalah* of Mining Concessions**

*Maslahah al-mursalah* is deemed a consideration for humanity’s agendas in the law. It is to maintain five main points, namely the religion, the soul, the mind, the offspring, and the wealth. It is also called the characteristics that are attached to a legal structure, in the form of an effort for human beings to take the positive things and leave the negative things. The placement of *al maslahah-mursalah* as a *dalil* (proposition) and *ijtihad* (independent reasoning) method or as a method of legal *istinbath* (decision-making process based on the Qur’an and Hadith) shows the flexibility and universality of the Islamic law. This can be sensed that the Islamic law may be applied in all eras and across all social sectors (Isnaini, 2020).

Carrying out *maslahah mursalah* is the best alternative in developing *ijtihad* methods, where the Qur’an and Sunnah must be understood through *ijtihad* methods by giving an emphasis on the *maslahah* (benefit) dimension. In this case, the *maslahah mursalah* concept gives information for new legal regulations and allows *fiqh* Islamic scholars to elaborate on the context of problems that are not explicitly stated in the *nash* (clear phrases from Islamic textbooks and sources) from the sharia (Asmawi, 2014). How far these legal changes may be achieved through the *maslahah* concept especially depends on legal rationing patterns with a weight of *maslahah* that *fiqh* Islamic scholars apply (Adinugraha & Mashudi, 2018). According to Amir Syarifuddin, *maslahah mursalah* comprises two forms, namely:

1. Creating benefit. In this case, it may create joy or virtue for human beings. These joys and virtues may be felt by the people who carry out certain actions according to the command, either while carrying out that action or in the future after that action has been
2. Protecting humanity from damage and harm is called *dar’u al-mafasid*. In this case, it means protecting human beings from damage and harm that may occur after committing prohibited actions. Such damage and harm may be felt directly after committing such prohibited actions. Or perhaps, after committing these prohibited actions, the perpetrator may feel temporary happiness. Then, they will experience the impacts of their actions, namely damage and harm (Syarifuddin, 2008).

Meanwhile, the *al-maslahah al-mursalah* means “bringing benefit and preventing harm (*mafsadat*) for the life of humankind.”

Carelessly giving mining concessions to religious community organizations will greatly bring negative impacts towards the development of mines in terms of the decision-making process. Employing a person who does not have the required competencies will lead to the making of bad decisions, which will in turn negatively impact the company, moreover in the coal mining sector, which requires experience and understanding in that sector (Rizky, 2024).

In the mining context, key actors encompass the government that determines the regulations, mining companies that strive for profit, and society that is directly impacted by mining activities. Muhammadiyah with its good reputation and its great mass basis has a great potential to carry out the role as an intermediary to link and balance the interests of these three actors.

**Mining Concessions: Between *Maslahah* and *Mafsadat***

Up to now, the issue of natural resource permits in Indonesia, including coal and minerals, has become a rather sensitive and complex issue. The peak of this issue is placed on sectoral ego, where if it is linked to religious community organizations that are involved in mining, it will certainly lead to negative impacts. Sectoral ego is a behavior that prioritizes the benefit of certain individuals and groups rather than mutual benefit.

Religious community organizations’ involvement triggers sectoral ego, such as:

1. Religious community organizations will certainly prioritize their own interests rather than mutual interests as this business entity will have different interests compared to other parties, such as the surrounding society, the government, as well as companies that manage mines.
2. There is a concern that religious community organizations’ position that has power over the mining sector will lead them to lack accountability and transparency. This is because religious community organizations previously had no knowledge of the work mechanism in this sector. This may lead to society’s lack of trust in such organizations. The provision of mining permits cannot be separated from strict responsibility and supervision. This supervision aims to prevent and minimize adverse events, potential dangers, losses, as well as environmental damages. The highly destructive characteristic of coal and mineral mining activities may potentially lead to great losses to the environment and society surrounding the mining area (Kadir, 2021).

Religious community organizations should maintain moral imperatives by protecting the environment and supporting communities that become victims of injustice. Being involved in damaging actions actually violates the values that they embrace and even damages the public trust. Apart from that, conflicts against indigenous communities may potentially arise. There may be highly dangerous environmental impacts that will create social issues. All this violates the initial goal of religious community organizations which was to create a positive impact for society and the environment. Therefore, this step needs to be carefully considered, especially in terms of human resource readiness and technological provision to make sure that the social goal carried out is not hindered by severe economic and environmental challenges. Table 3 shows the *maslahah mursalah* analysis of mining concessions for religious community organizations.

**Table 3. A *Maslahah Mursalah* Analysis of Mining Concessions for Religious Community Organizations**

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| --- | --- | --- |
| ***Maslahah* Requirement** | ***Maslahah* (Benefit)** | ***Mafsadat* (Harm)** |
| **1. Does not violate Qur’anic verses, hadith, or *ijma’***  If an action brings benefits but violates the sharia, that benefit cannot be taken. | Mining concessions will truly bring benefits if they are run according to the mandate, namely carrying out *amar ma'ruf nahi munkar* and *tajdid* which is manifested in all sectors of life. | However, it is certain that mines will bring damage, especially if the actor does not have the capacity to manage them. Accelerating the expansion of mining areas will bring negative impacts to society and the environment. |
| **2. In line with *maqashid al-sharia* (the higher intent of Islamic law)**  If an action brings benefits but violates *maqashid al-sharia*, that benefit cannot be taken. This encompasses the protection of the religion, the soul, the mind, the offspring, and the wealth. | It is true that on the one hand, managing mines for independence and social welfare will bring benefits. On the other hand, it brings damage to lives and nature. | Environmental damage caused by mining activities, such as deforestation and river pollution not only harms the current society but also threatens the survival of future generations. |
| **3. Does not violate stronger *maslahah***  There are times when something brings benefit but in reality, it violates stronger *maslahah*. For instance, the *maslahah* of the soul is stronger than the *maslahah* of the wealth. | Therefore, if something brings the *maslahah* of wealth but endangers lives, this *maslahah* cannot be taken as it may potentially lead to new issues from the legal, social, and economic aspects. | Religious community organizations’ lack of experience in managing mines may create complex issues. According to Rachman and Tunggari (2024), the case of religious community organizations that obtain mining concessions is not only a regulatory issue but regards how religious community organizations lack experience in this sector. |
| **4. The *maslahah* must be real and not theoretical**  For instance, if something brings benefits, but is still in the form of a theory which can be right or wrong, then it should not be taken. There must be prior proof that this benefit is real. Evidence should exist and its benefits must truly be sensed. | Managing mines may strengthen religious community organizations’ *da’wa* in the economic sector apart from *da’wa* in the education, health, social welfare, *tabligh*, and other *da’wa* sectors. | Damages due to mine management are already clear. However, the benefits of religious community organizations from mine management are still in the form of plans and theories. It will lead to horizontal conflicts between religious community organizations and indigenous communities. |
| **5. The *maslahah* must have general rather than individual characteristics**  *Maslahah* which has the characteristic of benefiting a certain group or individuals cannot be taken as it is only accessible to certain people while other people cannot access it. | Managing mines for independence and social welfare. | This violates the mining concession as it only brings benefits for religious community organizations rather than for the public. This will also make religious community organizations lose their independence. |

If perceived from the concept of *maslahah* and *mafsadat* it can be seen that religious community organizations’ management of mines will lead to many *mafsadat,* especially due to the fact that religious community organizations that should actively criticize the extractive industry ironically become active players. Thus, religious community organizations that voice ethics will lose their legitimacy and become actors who create damage. The discussion on the environmental *fiqh* and sustainable energy *fiqh* will become a joke. Religious teachings that orient towards benefit (*maslahah*) no longer become relevant if religion participates in an industry that is often opposed due to the injustice that it brings. The values of religious teachings will immediately fall due to errors in mine management, even though Muhammadiyah has promised that in case the mine management brings more harm than good (*mafsadat* over *maslahah*), it will return the mining concession to the government.

1. **CONCLUSION**

From the data obtained, it can be concluded that there is no urgency that obliges religious community organizations to manage coal and mineral mines. This is because based on the existing legal hierarchy, granting religious community organizations business permits is not according to the Law on Minerals and Coal and the Governmental Regulation No. 25 of 2024. The Law on Minerals and Coal only regulates the authority to manage mines which is given to state-owned and regional government-owned business enterprises and private companies that already have the technical capacity to manage mines.

For those in favor of this policy, it is deemed a courageous step that becomes an important breakthrough to expand the utilization of natural resources under the control of the state for a more direct benefit of society; to involve societal elements in managing the state’s natural resources; the president’s reward to religious community organizations that have contributed in building this country from the start; and religious community organizations already have internal mechanisms that allow capitalization of the human resources that they have. Religious community organizations, if given the trust, will certainly be able to optimally and professionally manage it.

Religious community organizations need to carry out an in-depth analysis to consider the *maslahah* and *mafsadat* in making the decision to accept the mining concession that the government offered. Religious community organizations should be strengthened in their function to resolve national issues rather than having it inserted into part of the state’s issue. The government should not make an excuse that the mining concession permit offer is a form of care and respect to religious community organizations that have so far been deemed to have given great contributions in guiding and empowering the community. This step may, without realizing it, actually degrade the role and function of religious community organizations.

Apart from that, so that this policy may bring benefits to the community, the surrounding society, and the environment, the issuing of concessions must be carried out with care. Moreover, there are challenges and requirements that religious community organizations must fulfill in the mining sector. The main challenge faced is religious community organizations’ readiness and capabilities in effectively and sustainably managing mines. Thus, there needs to be care to make sure that this policy may optimally be carried out so that it may have significant impacts towards the welfare of society. Therefore, religious community organizations should issue policies with *maslahat* characteristics that may bring welfare to various national components, apply the principle of environmental friendliness, as well as support sustainable development.

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**VI. REFERENCES**

1. Absori, A., Hernanda, T., Wardiono, K., Fitriciada, A., & Budiono, A. (2023). Critical analysis of River Basin Management Regulation in Bengawan Solo for Water Tourism: Local Legislation in 7 Regency. *WSEAS Transactions on Environment and Development*, *19*, 844–851. https://doi.org/10.37394/232015.2023.19.80
2. Adam, J. N., Adams, T., Gerber, J.-D., & Haller, T. (2021). Decentralization for increased sustainability in natural resource management? Two cautionary cases from Ghana Title. *Sustainability*, *13*(12). https://doi.org/10.3390/su13126885
3. Adinugraha, H. H., & Mashudi, M. (2018). Al-Maslahah Al-Mursalah dalam Penentuan Hukum Islam. *Jurnal Ilmiah Ekonomi Islam*, *4*(1), 63. https://doi.org/10.29040/jiei.v4i1
4. Agussalim, M., Ariana, A., & Saleh, R. (2023). Kerusakan Lingkungan Akibat Pertambangan Nikel di Kabupaten Kolaka Melalui Pendekatan Politik Lingkungan. *Palita: Journal of Social Religion Research*, *8*. https://doi.org/10.24256/pal.v8i1.3610
5. Anardianto, A. (2024). *Muhammadiyah Siap Kelola Tambang dengan Pertimbangan yang Seksama*. Muhammadiyah. https://muhammadiyah.or.id/2024/07/muhammadiyah-siap-kelola-tambang-dengan-pertimbangan-yang-seksama/
6. Arellano-Yanguas, J. (2011). Aggravating the resource curse: Decentralisation, mining and conflict in Peru. *Journal of Development Studies*, *47*(4), 617–638. https://doi.org/10.1080/00220381003706478
7. Asmawi. (2014). Konseptualisasi Teori Maṣlaḥah. *Salam: Jurnal Sosial Dan Budaya Syar’i*, *1*(2). https://doi.org/10.15408/sjsbs.v1i2.1548
8. Astinda, A., Pratama, W., & Haidar, M. (2024). Konflik Regulasi dan Masalah Kelayakan pada Kebijakan Izin Usaha Pertambangan bagi Ormas Keagamaan. *Jurnal USM Law Review*, *7*, 1851. https://doi.org/10.26623/julr.v7i3.10900
9. Awaludin, A. A. (2024). *Kebijakan Tambang bagi Ormas Keagamaan: Kepedulian atau Kepentingan?* UNAIR NEWS. https://unair.ac.id/kebijakan-tambang-bagi-ormas-keagamaan-kepedulian-atau-kepentingan/
10. Balqis, A. (2023). Perspective of Development Law on the Impact of Investment in the Mandalika Circuit Project in Indonesia. *Journal of Transcendental Law*, *5*(2). https://doi.org/10.23917/jtl.v5i2.1921
11. Bodo, T., Gimah, B., & Seomoni, K. (2021). Deforestation: Human Causes, Consequences and Possible Solution. *Journal of Geographical Research*, *4*. https://doi.org/10.30564/jgr.v4i2.3059
12. Bordbar, B., Khosravi, A., Abdollahi, F., Hashemifard, S. A., & Karagöz, S. (2023). An insight into environmental footprints of emerging air-conditioning systems towards sustainable cities Sustain. *Sustainable Cities and Society*, *98*. https://doi.org/10.1016/j.scs.2023.104830
13. Budiono, A., Marjanah, I. D., Yuspin, W., Hernanda, T., Absori, A., Bangsawan, M. I., & Ramon, T. M. (2024). Ecoregion-Based Environment Policy to Resolve Water Resource Conflicts at the Surakarta Ex-Residence. *WSEAS Transactions on Environment and Development*, *20*, 491–503. https://doi.org/10.37394/232015.2024.20.48
14. Diahwahyuningtyas, A., & Nugroho, R. S. (2024). Daftar Ormas Keagamaan yang Tolak Izin Tambang dari Jokowi. *Tempo*. https://www.tempo.co/ekonomi/daftar-ormas-agama-yang-tolak-dan-terima-izin-tambang-jokowi-49749
15. Djulaeka, & Rahayu, D. (2020). *Buku Ajar Metode Penelitian Hukum*. Scopindo Media Pustaka.
16. Fitrah, M. (2024). Menggali Konsesi Tambang: Muhammadiyah sebagai Intermediary antara Pemerintah, Perusahaan, dan Masyarakat. *Jurnal Paradigma*, *5*(2). https://doi.org/10.22146/jpmmpi.v5i2.101903
17. Fraser, J. (2021a). Mining companies and communities: Collaborative approaches to reduce social risk and advance sustainable development. *Resources Policy*, *74*, 101144. https://doi.org/10.1016/j.resourpol.2018.02.003
18. Fraser, J. (2021b). Mining companies and communities: Collaborative approaches to reduce social risk and advance sustainable development. *Resources Policy*, *74*. https://doi.org/10.1016/j.resourpol.2018.02.003
19. Haddaway, N. R., Cooke, S. J., & Lesser, P. (2019). Evidence of the impacts of metal mining And the effectiveness of mining mitigation measures on social–ecological systems Arctic and boreal regions: a systematic map protocol. *Environmental Evidence*, *8*(9). https://doi.org/10.1186/s13750-019-0152-8
20. Hauschild, M. Z., Rosenbaum, R. K., & Olsen, S. I. (2018). *Life Cycle Assessment: Theory and Practice*. Springer International Publishing. https://doi.org/10.1007/978-3-319-56475-3
21. Howells, J. (2006). Intermediation and the role of intermediaries in innovation. *Research Policy*, *35*(6), 715–728. https://doi.org/10.1016/j.respol.2006.03.005
22. Ishaq, H. (2017). *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, serta Disertasi*. Alfabeta.
23. Isnaini, I. (2020). Mashlahah Al-Mursalah Sebagai Dalil Dan Metod Ijtihad. *Hikmah: Journal of Islamic Studies*, *16*, 203. https://doi.org/10.47466/hikmah.v16i2.175
24. Kadir, A. (2021). Penyelesaian Sengketa Administrasi Izin Usaha Pertambangan Pasca Berlakunya Undang-Undang Nomor 3 Tahun 2020. *Sultra Research of Law*, *3*(2). https://doi.org/10.54297/surel.v3i2.26
25. Khosravi, A., Bordbar, B., Orkomi, A. A., Karchiyappan, T., Karri, R. R., & Dehghani, M. H. (Eds.). (2022). Life Cycle Assessment of Emerging Technologies in Industrial Wastewater Treatment and Desalination BT. In *Industrial Wastewater Treatment : Emerging Technologies for Sustainability* (pp. 369–398). Springer International Publishing. https://doi.org/10.1007/978-3-030-98202-7\_15
26. Kurniawan, I. G. A., Samsithawrati, P. A., & Lulo, lourenco de D. M. (2023). Eksistensi Sanksi Administrasi Bisnis Digital dalam Perspektif Economic Analyzsis of Law. *Jurnal Ius Costituendum*, *8*(1), 115–131. https://doi.org/10.26623/jic.v8i1.6281
27. Letcher, T. M. (2020). Introduction with a focus on atmospheric carbon dioxide and climate change. In *Future Energy (Third Edition): Improved, Sustainable and Clean Options for Our Planet* (pp. 3–17). Elsevier. https://doi.org/10.1016/B978-0-08-102886-5.00001-3
28. Listiyani, N., & Nopliardy, R. (2017). Dampak Pertambangan terhadap Lingkungan Hidup di Kalimantan Selatan dan Implikasinya bagi Hak-Hak Warga Negara. *Al-Adl: Jurnal Hukum*, *9*(1), 67–86. https://doi.org/10.31602/al-adl.v9i1.803
29. Mahendra, K., Saputra, E. Y., & Abdurrahman, S. (2024, October 2). Daftar 12 Individu yang Gugat Izin Tambang Ormas, Ada Putri Gus Dur. *Tempo*. https://www.tempo.co/politik/daftar-12-individu-yang-gugat-izin-tambang-ormas-ada-putri-gus-dur--3624
30. Paraschiv, S., & Paraschiv, L. S. (2020). Trends of carbon dioxide (CO2) emissions from fossil fuels combustion (coal, gas and oil) in the EU member states from 1960 to 2018. *Energy Reports*, *6*, 237–242. https://doi.org/10.1016/j.egyr.2020.11.116
31. Patoni. (2024). *Ketua Umum PBNU Angkat Bicara soal Konsesi Tambang untuk Ormas Keagamaan*. NU Online. https://nu.or.id/nasional/ketua-umum-pbnu-angkat-bicara-soal-konsesi-tambang-untuk-ormas-keagamaan-RXbOF
32. Provan, K. G., & Kenis, P. (2008). Modes of Network Governance : Structure , Management , and Effectiveness. *Journal of Public Administration Research and Theory*, *18*(2), 229–252. https://doi.org/10.1093/jopart/mum015
33. Rachman, S. N., & Tunggari, M. T. (2024). Kontradiksi Pengaturan Penawaran Prioritas Wilayah Izin Usaha Pertambangan Khusus Terhadap Badan Usaha Milik Organisasi Kemasyarakatan Keagamaan. *Jurnal Ilmu Hukum The Juris*, *8*(1), 349–365. https://doi.org/10.56301/juris.v8i1.1315
34. Rahman, A., Wasistiono, S., Riyani, O., & Tahir, M. (2023). Peran Organisas Masyarakat (Ormas) dan Lembaga Swadaya Masyarat (LSM) dalam Pembangunan Berkelanjutan di Indonesia. *Ekonomis: Journal of Economics and Business*, *7*, 1461. https://doi.org/10.33087/ekonomis.v7i2.1492
35. Raj, K., & Das, A. P. (2023). Lead pollution: Impact on environment and human Health and approach for a sustainable solution. *Environmental Chemistry and Ecotoxicology*, *5*, 79–85. https://doi.org/10.1016/j.enceco.2023.02.001
36. Ramana, K. V., Srinivas, T., & Rao, S. E. (2024). A Study of Environmental Parameters Influencing Sustainable Mining. *Journal of The Institution of Engineers (India): Series D*. https://doi.org/10.1007/s40033-024-00842-1
37. Rizky, A. (2024). Konsekuensi Pemberian Konsesi Pertambangan Organisasi Masyarakat Keagamaan. *Zona Hukum Jurnal Hukum*. https://www.researchgate.net/publication/381516690\_KONSEKUENSI\_PEMBERIAN\_KONSESI\_PERTAMBANGAN\_ORGANISASI\_MASYARAKAT\_KEAGAMAAN
38. Saputra, D. (n.d.). Pesan Para Ahli untuk NU dan Muhammadiyah Sebelum Kelola Konsesi Tambang. *Ekonomi Bisnis*.
39. Sari, D. P., & Awiati, W. (2024). Implementation of Governance and Sustainable Development Aspects of the Environmental Law Protection and Management Act from the Rationality Perspective of Judges. *Jurnal Jurisprudence*, *14*(1). https://doi.org/10.23917/jurisprudence.v14i1.4775
40. Singh, R., Singh, P. K., & Singh, S. (2016). Environmental and social impacts of mining And their mitigation. *National Seminar ESIMM*.
41. Sosa, M., Boelens, R., & Zwarteveen, M. (2017). The influence of large mining: Restructuring water rights among rural communities in Apurimac, Peru. *Human Organization*, *76*(3), 215–226. https://doi.org/10.17730/0018-7259.76.3.215
42. Suherman, I., & Saleh, R. (2018). Supply chain analysis for Indonesian nickel. *Indonesian Mining Journal*, *21*(1), 59–76. https://doi.org/10.30556/imj.Vol21.No1.2018.246
43. Surya, T. A., & Suryawan, A. A. (2024). Pelibatan Ormas Keagamaan dalam Mengelola Tambang. *Pelibatan Ormas Keagamaan Dalam Mengelola Tambang*, *18*(15), 11–16.
44. Syarifuddin, A. (2008). *Ushul Fiqh 2*. Kencana.
45. Triasmono, H., & Ruslie, A. S. (2024). Comparison between Customary Legal Systems and Modern Legal Systems in the Context of Globalization. *International Journal of Law and Society*, *3*(1), 24–33. https://doi.org/10.59683/ijls.v3i1.76
46. Ubink, J., & Pickering, J. (2024). The mine, the community, and the chief–mining governance and community representation in conditions of legal pluralism. *Legal Pluralism and Critical Social Analysis*, *56*(2), 236–264. https://doi.org/10.1080/27706869.2024.2372898
47. Wahyono, Y., Hadiyanto, H., Budihardjo, M. A., & Adiansyah, J. S. (2020). Assessing the environmental performance of palm oil biodiesel production in Indonesia: a life cycle assessment approach. *Energies*, *13*(12), 3248. https://doi.org/10.3390/en13123248
48. Wahyono, Y., Hadiyanto, H., Pratiwi, W. Z., & Dianratri, I. (2021). “Biopellet” as one of future promising biomassbased renewable energy: a review. *E3S Web of Conferences*, *317*(04029). https://doi.org/10.1051/e3sconf/202131704029
49. Wahyono, Y., Sasongko, N. A., Trench, A., Anda, M., Hadiyanto, H., Aisyah, N., Anisah, A., Ariyanto, N., Kumalasari, I., Putri, V. Z. E., Lestari, M. C., Panggabean, L. P., Ridlo, R., Sun, S., & Matin, H. H. A. (2024). Evaluating the impacts of environmental and human health of the critical minerals mining and processing industries in Indonesia using life cycle assessment. *Case Studies in Chemical and Environmental Engineering*, *10*. https://doi.org/10.1016/j.cscee.2024.100944
50. Wasis, B. (2024). *Pertambangan, Hilirisasi Industri, Kerusakan Lingkungan Hidup Dan Pembangunan Berkelanjutan* (College Materials). https://doi.org/10.13140/RG.2.2.28867.78884
51. Worlanyo, A. S., & Jiangfeng, L. (2020). Evaluating the environmental and economic impact of mining for post-mined land restoration and land-use: A review. *Journal of Environmental Management*, *279*. https://doi.org/10.1016/j.jenvman.2020.111623