



## Enforcing Laws Against Illegal Gold Mining through the Lens of Islamic Criminal Law: A Case Study of Jambur Tarutung Kotanopan

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### ABSTRACT

*Illegal gold mining (pertambangan emas tanpa izin, PETI) in Jambur Tarutung, Kotanopan, presents complex legal, socio-economic, and environmental challenges. This study examines the enforcement of criminal law against illegal gold mining in the region and explores how Islamic criminal law can provide a complementary framework for addressing such issues. Using an empirical juridical approach, this research integrates normative analysis of relevant legal provisions - particularly Law No. 3 of 2020 on Mineral and Coal Mining - with field data gathered through in-depth interviews, observations, and document analysis involving law enforcement officials, community leaders, religious scholars, and affected residents. Findings reveal that law enforcement remains largely ineffective due to weak supervision, limited institutional capacity, socio-political interference, and the dependence of local communities on illegal mining as an economic livelihood. From an Islamic criminal law perspective, these activities constitute jarimah ta'zīr involving fasad (corruption and destruction), warranting discretionary sanctions by the ulil amri that combine punitive and restorative measures. This study argues for an integrative enforcement model that merges positive law with maqāṣid al-sharī'ah, emphasizing ecological restoration, community empowerment, and moral-spiritual reform. Such an approach promotes sustainable resource governance while fostering social justice and collective environmental responsibility.*

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## 1. Introduction

Illegal gold mining (*Pertambangan Emas Tanpa Izin*, hereinafter PETI) has become one of the most pressing challenges in Indonesia's legal and environmental governance. These activities are not merely carried out covertly, but often occur openly in forests, rivers, and hilly areas that are otherwise designated as protected due to their ecological and social significance. The impacts are multifaceted: severe water pollution from the use of mercury and cyanide, deforestation, increased risk of landslides, and the destruction of habitats for endemic flora and fauna.<sup>1</sup>

In Jambur Tarutung, Kotanopan District, Mandailing Natal Regency, field research has identified at least 17 active PETI sites operated by both local residents and external actors utilizing heavy machinery. More than 25 hectares of agricultural land have been permanently damaged - submerged under mining sludge and contaminated by toxic wastewater.<sup>2</sup> While some rural households regard PETI as a vital economic buffer in the face of fluctuating rubber and coffee prices, the practice has simultaneously triggered horizontal conflicts, intensified ecological risks, and eroded the quality of life for surrounding communities.<sup>3</sup>

This phenomenon is not merely a matter of economic or legal concern but also of moral and spiritual significance. From the perspective of Islamic criminal law, environmental destruction and the unauthorized extraction of natural resources are categorized as *jarimah ta'zīr*, crimes whose punishments are determined by the *ulil amri* (legitimate authority) based on public welfare. Islam regards the earth as a divine trust and humanity as *khalifah* (stewards) responsible for its preservation and sustainable management. The damages caused by illegal mining constitute *ifsād fī al-ardh* (*corruption on earth*), which is explicitly prohibited in the Qur'an, as emphasized in Surah Ar-Rum (30):41:

ظَهَرَ الْفَسَادُ فِي الْبَرِّ وَالْبَحْرِ بِمَا كَسَبَتْ أَيْدِي النَّاسِ لِيُذِيقَهُمْ بَعْضَ الَّذِي عَمِلُوا لَعَلَّهُمْ يَرْجِعُونَ

Artinya :

"*Corruption has appeared on land and sea because of what the hands of people have earned, so that He may let them taste part of what they have done, that they might return to righteousness.*" - Q.S Ar-Rum 30: 4.

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<sup>1</sup> Ami A. Meutia, Dianto Bachriadi, dan Nurfitri Abdul Gafur, "Environment Degradation, Health Threats, and Legality at the Artisanal Small-Scale Gold Mining Sites in Indonesia," *International Journal of Environmental Research and Public Health* 20, no. 18 (17 September 2023): 6774, <https://doi.org/10.3390/ijerph20186774>.

<sup>2</sup> Deka Maita Sandi, "Aktivitas Penambang Emas Tanpa Izin (Peti) Di Kecamatan Batang Natal Kabupaten Mandailing Natal (2004-2017)," *Jurnal Education and development* 4, no. 1 (2018): 125–28.

<sup>3</sup> Andri Yusuf Siregar et al., "Analisis dampak ekonomi penambangan emas ilegal menurut konsep ekonomi pembangunan berkelanjutan dan maqashid syariah: Studi kasus kecamatan Batang natal kabupaten Mandailing Natal," *Sibatik Journal | Volume 3*, no. 1 (2023): 271–84.

This verse serves as a stark warning that ecological devastation stems from human actions and calls for repentance and behavioral change.<sup>4</sup> Consequently, PETI represents not only a violation of state law but also a betrayal of divine trust and an injustice against public rights (*ḥuqūq ‘āmmah*).

Previous studies have examined illegal gold mining (PETI) in Indonesia through various Islamic and legal perspectives. Syah et al. (2024) underscored that in South Aceh, illegal mining directly contradicts Islamic environmental jurisprudence (*fiqh al-bi’ah*), as it causes deforestation, elevates flood risks, and undermines community welfare, thus warranting discretionary sanctions (*ta’zīr*) to deter such activities.<sup>5</sup> Qodri and Marpaung (2024) highlighted that environmental destruction falls under the category of *jarimah*, reflecting humanity’s divinely mandated responsibility to manage natural resources wisely, as emphasized in Surah Al-Baqarah 205,<sup>6</sup> while Haniah (2023) affirmed the theological basis for viewing environmental crimes as moral and legal transgressions against public rights (*ḥuqūq ‘āmmah*).<sup>7</sup> Lukman et al. (2022) elaborated on the critical role of *ulil amri* (authorities) in imposing proportional *ta’zīr* punishments for environmental crimes, ensuring sanctions align with both Islamic and civil legal frameworks.<sup>8</sup> Furthermore, Muhaimin (2022) discussed how the *maqāṣid al-sharī’ah* framework - especially its emphasis on public interest and environmental stewardship - underpins ethical mining practices, as reflected in the Indonesian Ulema Council’s (MUI) Fatwa on Environmentally Friendly Mining.<sup>9</sup> Complementing this, Alauddin et al. (2022) emphasized the importance of community participation and collaborative oversight between government and society to combat illegal mining and its adverse effects.<sup>10</sup> Collectively, these studies underscore the potential of integrating Islamic legal principles

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<sup>4</sup> Muhammad Agus Fajar Syaefudin dan Fajar Ari Sudewo, “Penegakan Hukum Terhadap Tindak Pidana Pertambangan Mineral dan Batubara Ilegal di Kota Cirebon,” *Diktum : Jurnal Ilmu Hukum* 8, no. 1 (2020): 108–24, <https://doi.org/10.24905/diktum.v8i1.81>.

<sup>5</sup> Yuhansibar Syah et al., “For The Sake of Survival: Illegal Gold Mining Exploitation Crimes from Environmental Fiqh in South Aceh Regency,” *Legitimasi: Jurnal Hukum Pidana dan Politik Hukum* 13, no. 1 (2024): 121, <https://doi.org/10.22373/legitimasi.v13i1.25008>.

<sup>6</sup> M. Ibnu Qodri dan Zaid Alfauza Marpaung, “Tinjauan Hukum Pidana Islam Terhadap Penambangan Pasir Ilegal Untuk Bahan Pembangunan Proyek Di Pasaman Barat,” *Ranah Research : Journal of Multidisciplinary Research and Development* 6, no. 5 (2024): 2027–40, <https://doi.org/10.38035/rj.v6i5.1110>.

<sup>7</sup> Rafiqatul Haniah, “Jarimah Bagi Pelaku Tindak Pidana Lingkungan Hidup Perspektif Hukum Islam,” *Ahkam* 11, no. 1 (September 2023): 109–132.

<sup>8</sup> Lukman Lukman, Muzdalifah Muhammadun, dan Budiman Budiman, “Environmental Criminal Law Enforcement in the Perspective of Islamic Criminal Law (Kupa Beach Case Study, Barru District),” *DELICTUM: Jurnal Hukum Pidana Islam* 1, no. 1 (2022): 60–72, <https://doi.org/10.35905/delictum.v1i2.3192>.

<sup>9</sup> Muhaimin Muhaimin, “Fatwa MUI Nomor 22 Tahun 2011 tentang Pertambangan Ramah Lingkungan Perspektif Maqashid Al-Syari’ah,” *YUDISIA : Jurnal Pemikiran Hukum dan Hukum Islam* 13, no. 1 (2022): 49, <https://doi.org/10.21043/yudisia.v13i1.14314>.

<sup>10</sup> Rusdin Alauddin et al., “Environmental Legal Responsibility Of Non-Metal And Rock Mining Business Persons In Sharia Perspective: Study In The City Of Tidore Islands,” *Journal of Transcendental Law* 3, no. 2 (2022): 90–97, <https://doi.org/10.23917/jtl.v3i2.17792>.

with national enforcement mechanisms to create more just, participatory, and sustainable approaches to addressing PETI, while also revealing the persistent challenges of aligning religious and civil legal systems in practice.

A clear research gap emerges from this literature. To date, there has been no comprehensive study integrating the principles of *maqāṣid al-sharī'ah*, particularly *hifẓ al-bī'ah* (environmental protection) and *hifẓ al-māl* (protection of wealth), into Indonesia's national enforcement framework for tackling PETI. Little exploration has been conducted on how Islamic criminal law can bridge the dilemma between local communities' economic needs and the state's obligation to safeguard the environment. Furthermore, the roles of community participation and alternative economic empowerment as integral components of enforcement strategies remain underexplored.

This study offers novelty by proposing a holistic enforcement model that integrates *jarimah ta'zīr* and *maqāṣid al-sharī'ah* principles into the national law enforcement framework. This model does not solely emphasize punitive measures but also incorporates educational, restorative, and transformative approaches, engaging communities in ecological rehabilitation while providing sustainable and lawful alternative livelihoods. It draws inspiration from the integration of Islamic legal principles in Aceh through the Qanun system, which demonstrates the effectiveness of harmonizing religious norms with state legal mechanisms in addressing complex socio-legal challenges.

Within this framework, the study contributes academically by expanding the discourse on Islamic criminal law in the context of environmental crimes while offering practical recommendations to strengthen enforcement in rural, Muslim-majority regions. Theoretically, it bridges the gap between Islamic normative principles and positive law; practically, it proposes enforcement strategies that are more just, participatory, and ecologically oriented. Accordingly, this study aims to enrich the discourse on environmental law enforcement in Indonesia and present a context-sensitive, equitable, and sustainable model for addressing PETI in Jambur Tarutung and similar regions.

## 2. Legal Material and Methods

This study adopts an empirical juridical research design that integrates normative and sociological approaches to provide a comprehensive understanding of law enforcement against illegal gold mining from the perspective of Islamic criminal law. The normative approach focuses on the examination of written legal frameworks, including Law No. 4 of 2009 on Mineral and Coal Mining, the Indonesian Criminal Code (KUHP), and relevant principles of Islamic criminal law (*fiqh jināyah*), as well as ethical guidelines derived from *maqāṣid al-sharī'ah*. The sociological approach complements this by exploring how these legal norms are implemented in practice, particularly in the context of community

interactions, local governance, and law enforcement dynamics<sup>11</sup> in Jambur Tarutung, Kotanopan District—a region known for its prevalence of illegal gold mining activities.

Primary data were collected through in-depth interviews with key stakeholders, including law enforcement officials, prosecutors, judges, religious leaders, community elders, affected residents, and mining operators. These interviews were supported by direct field observations, which provided insights into the operational realities of illegal mining and the enforcement responses. Secondary data were obtained from official documents such as court decisions, regulatory archives, and government reports, as well as academic sources, including peer-reviewed journals, scholarly books, and authoritative Islamic legal texts. This combination of data sources ensures methodological triangulation and enhances the reliability of the findings.

All collected data were analyzed using descriptive-qualitative content analysis, which involved interpreting legal texts, policy documents, and empirical findings to identify intersections between the normative ideals of Islamic criminal law and the realities of law enforcement practices. This analysis allowed the study to evaluate the effectiveness of current enforcement mechanisms, uncover structural and cultural barriers, and explore strategies for aligning national law enforcement with the substantive justice principles of Islamic criminal law. Ethical considerations, including informed consent and confidentiality of participants, were strictly observed throughout the research process.

### 3. Results and Discussion

#### 3.1. Implementation of Criminal Law Enforcement on Environmental Damage Related to Illegal Gold Mining in Jambur Tarutung, Kotanopan

Illegal gold mining in Jambur Tarutung Kotanopan presents a multidimensional challenge to Indonesia's environmental criminal law enforcement framework. Field observations and interviews with community leaders reveal that at least 17 illegal mining sites are operating in this region, involving artisanal and small-scale gold mining (ASGM) practices. These activities employ both traditional manual methods and mechanized techniques utilizing heavy equipment and mercury-based processing. Each site typically employs between 10 and 20 miners, with daily earnings ranging from IDR 200,000 to 500,000, which—despite being economically beneficial—come at the expense of irreversible ecological damage. More than 25 hectares of agricultural land have been rendered unproductive, rivers are heavily polluted with mercury and sediment, and deforestation has destabilized hilly areas, leading to a heightened risk of landslides. While these mining activities support household incomes amid fluctuating rubber and coffee

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<sup>11</sup> Kornelius Benuf dan Muhamad Azhar, “Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer,” *Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

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prices, they have simultaneously triggered social conflicts, land disputes, and broader environmental insecurity.

From a normative standpoint, these activities directly contravene several legal provisions. Article 35 and Article 158 of Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 on Mineral and Coal Mining stipulate that mining activities must be carried out under a valid Mining Business Permit (IUP). Violations of these provisions are subject to criminal sanctions, including imprisonment and fines. Moreover, Article 69 of Law No. 32 of 2009 on Environmental Protection and Management criminalizes actions that cause environmental destruction, while the Indonesian Criminal Code (KUHP) provides further criminal liability for acts of property damage and public endangerment. However, the enforcement of these provisions in Jambur Tarutung remains largely ineffective. Interviews with police authorities indicate that, although three enforcement operations were conducted between 2022 and 2023, resulting in 12 arrests, only four individuals were prosecuted, while the rest were released or subjected to administrative guidance due to their classification as low-level workers rather than intellectual actors behind the mining operations.

The ineffective enforcement is attributable to multiple socio-economic factors. Interviews with local residents confirm that poverty and limited livelihood opportunities compel many to participate in illegal mining, viewing it as a survival mechanism rather than a criminal enterprise.<sup>12</sup> Resistance from the community poses additional challenges to enforcement. As Lumowa et al. (2022) observe, law enforcement actions often encounter opposition from local stakeholders who view mining as a necessary means of subsistence.<sup>13</sup> This creates a cycle in which enforcement efforts exacerbate social tensions, rendering legal interventions more complex and contentious.

Regulatory and governance weaknesses further exacerbate the problem. Ampaw et al. (2024) highlight that environmental law enforcement in developing regions often suffers from inadequate institutional frameworks, regulatory ambiguity, and resource constraints.<sup>14</sup> In Jambur Tarutung, these weaknesses manifest in poor inter-agency coordination between the police, local government, and the Energy and Mineral Resources Office. Corruption and political compromise, as noted in interviews with law enforcement officials, allow illegal mining operations to persist despite periodic raids, reinforcing the

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<sup>12</sup> Daisy Rose Ofori dan Jerome Jeffison Ofori, "Digging for Gold or Justice? Misrecognition and Marginalization of 'Illegal' Small-Scale Miners in Ghana," *Social Justice Research* 31, no. 4 (2018): 355–73, <https://doi.org/10.1007/s11211-018-0313-x>.

<sup>13</sup> Royke Lumowa et al., "Promote Social Order to Achieve Social and Ecological Justice for Communities to Prevent Illegal Artisanal Small-Scale Gold Mining," *Sustainability (Switzerland)* 14, no. 15 (2022), <https://doi.org/10.3390/su14159530>.

<sup>14</sup> Enock Mintah Ampaw et al., "Rethinking small-scale gold mining in Ghana: A holy grail for environmental stewardship and sustainability," *Journal of Cleaner Production* 437, no. January (2024): 140683, <https://doi.org/10.1016/j.jclepro.2024.140683>.

perception of selective enforcement where actions are “sharp downward but blunt upward.”

The environmental and health consequences of illegal gold mining in Jambur Tarutung are severe. Consistent with findings by Esdaile and Chalker (2018), the use of mercury in ASGM contributes to widespread water contamination, posing chronic health risks to miners and surrounding communities.<sup>15</sup> Sedimentation has blocked irrigation channels, undermining local food security and damaging the agricultural economy. These environmental harms extend beyond the immediate area, creating potential downstream effects on broader ecosystems, as also noted by Cabeza et al. (2019) in similar contexts.<sup>16</sup>

Law enforcement agencies face technical and operational constraints that limit their effectiveness. Faure (2017) emphasizes that environmental crime enforcement requires specialized expertise, forensic laboratories, and sustained patrol operations<sup>17</sup> - resources that are largely absent in remote areas such as Kotanopan. The lack of forensic facilities to test for contamination and inadequate investigative capacity significantly hinder the ability to secure convictions in court. Consequently, many cases are resolved through administrative penalties or non-custodial sentences, failing to reflect the magnitude of ecological harm caused.

The socio-political dynamics of illegal gold mining further complicate enforcement. As observed in similar contexts, illegal mining operations often involve networks of financiers, middlemen, and political patrons who benefit from the illicit trade while shielding themselves from legal liability. This entrenched political economy of illegal mining perpetuates impunity and undermines the credibility of state enforcement institutions. Without disrupting these structural relationships, enforcement efforts are likely to remain superficial and unsustainable.

From the perspective of Islamic criminal law, these practices constitute *jarimah ta'zir*, or discretionary offenses determined by the ruler (*ulil amri*) to protect public welfare (*maslahah 'ammah*). The destruction of rivers, deforestation, and loss of agricultural land align with the Qur'anic prohibition against corruption on Earth (*ifsad fil ardh*), as articulated in Surah Al-Baqarah (2:205) and Al-A'raf (7:56). Within this framework, sanctions extend beyond imprisonment and fines to include restorative measures such as

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<sup>15</sup> Louisa J. Esdaile dan Justin M. Chalker, “The Mercury Problem in Artisanal and Small-Scale Gold Mining,” *Chemistry - A European Journal* 24, no. 27 (2018): 6905–16, <https://doi.org/10.1002/chem.201704840>.

<sup>16</sup> M. Cabeza et al., “Gold is not green: artisanal gold mining threatens Ranomafana National Park’s biodiversity,” *Animal Conservation* 22, no. 5 (2019): 417–19, <https://doi.org/10.1111/acv.12475>.

<sup>17</sup> Michael Faure, “The Development of Environmental Criminal Law in the EU and its Member States,” *Review of European, Comparative and International Environmental Law* 26, no. 2 (2017): 139–46, <https://doi.org/10.1111/reel.12204>.

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land rehabilitation, compensation for affected communities, and moral-spiritual reformation programs aimed at instilling ecological ethics.

The integration of Islamic criminal law principles into national enforcement mechanisms offers a promising avenue for reform. Syariah-based approaches emphasize preventive measures (*sadd al-dhara'i*), social justice (*al-'adl*), and collective accountability, which could complement the punitive focus of statutory law. Programs combining legal enforcement with community-based education, economic empowerment, and moral guidance - as advocated by Hasibuan et al. (2021)<sup>18</sup> - could foster greater compliance and reduce reliance on illegal mining.

Furthermore, aligning local regulations with *maqasid al-shari'ah* (the objectives of Islamic law) could enhance the legitimacy of enforcement measures among Muslim communities in Kotanopan. As Muhaimin (2022) suggests, incorporating ethical guidelines for sustainable mining practices into regional policies would promote both ecological stewardship and social welfare.<sup>19</sup> This integrative approach can bridge the gap between state law and community norms, increasing the perceived fairness and efficacy of enforcement efforts.

Ultimately, addressing illegal gold mining in Jambur Tarutung Kotanopan requires a multi-pronged strategy. This includes strengthening the legal framework for environmental crime, enhancing institutional capacity, disrupting political protection networks, and integrating Islamic legal principles to foster moral accountability. By combining punitive, restorative, and preventive measures, law enforcement can move beyond episodic crackdowns toward sustainable solutions that balance ecological integrity, community welfare, and economic realities.

In conclusion, the enforcement of criminal law against illegal gold mining in Jambur Tarutung Kotanopan cannot rely solely on formalistic legal actions. A comprehensive approach - grounded in statutory law, enriched by Islamic principles of justice and environmental ethics, and supported by community engagement - is essential for achieving long-term ecological justice and social stability.

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<sup>18</sup> Ongku Hasibuan, Jann Tjakraatmadja, dan Yos Sunitiyoso, "Finding Workable and Mutually Beneficial Solutions to Eradicate Illegal Gold Mining," *BISNIS & BIROKRASI: Jurnal Ilmu Administrasi dan Organisasi* 28, no. 2 (2021), <https://doi.org/10.20476/jbb.v28i2.1239>.

<sup>19</sup> Muhaimin, "Fatwa MUI Nomor 22 Tahun 2011 tentang Pertambangan Ramah Lingkungan Perspektif Maqashid Al-Syari'ah."

### 3.2. The Perspective of Islamic Criminal Law on Environmental Damage Caused by Illegal Gold Mining in Jambur Tarutung Kotanopan

Islamic criminal law provides a comprehensive normative and moral framework for addressing environmental crimes, including the damage caused by illegal gold mining.<sup>20</sup> The principles of Shariah emphasize that the Earth is a divine trust that must be preserved for the benefit of humanity. The Qur'an explicitly prohibits *fasad* (corruption or destruction) on Earth (Q.S. Al-Baqarah: 205; Q.S. Al-A'raf: 56), which scholars interpret to encompass acts of environmental degradation, water pollution, deforestation, and ecosystem destruction.<sup>21</sup> The concept of *fiqh al-bi'ah* (Islamic environmental jurisprudence) underscores the importance of maintaining ecological balance and avoiding exploitative practices that cause harm.<sup>22</sup> In the context of Jambur Tarutung Kotanopan, illegal mining activities that contaminate rivers with mercury, degrade agricultural lands, and threaten community safety are clearly violations of these principles.

Within the framework of *fiqh jināyah* (Islamic criminal law), environmental degradation resulting from illegal mining is categorized as a *jarimah ta'zīr* - an offense for which sanctions are determined by the governing authority (*ulil amri*) to protect public welfare (*maslahah*).<sup>23</sup> This means the state has the authority to impose flexible sanctions ranging from fines, imprisonment, and equipment confiscation to restorative penalties, such as mandatory land rehabilitation and compensation to affected communities. Such measures not only emphasize punitive responses but also aim to restore environmental balance and uphold social justice disrupted by these illegal practices.<sup>24</sup>

A fundamental principle in Islamic law, *al-dharar yuzāl* (harm must be eliminated), is particularly relevant in this case. In Jambur Tarutung Kotanopan, illegal mining has caused significant harm - including mercury contamination, land degradation,

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<sup>20</sup> Lestary Saputri, "Environmental Law Enforcement on Illegal Rock Mining in Indonesia: A Case Study of Bone Regency," *Constitutional Law Review* 3, no. 1 (31 Mei 2024): 51–64, <https://doi.org/10.30863/clr.v3i1.5638>.

<sup>21</sup> Abdul Basir Mohamad, "Environmental Preservation and Water Pollution from the Islamic Perspective," *Samarah* 7, no. 2 (2023): 997–1015, <https://doi.org/10.22373/sjhk.v7i2.16019>.

<sup>22</sup> E. Kula, "Islam and environmental conservation," *Environmental Conservation* 28, no. 1 (2001): 1–9, <https://doi.org/10.1017/S0376892901000017>; Nur Chanifah et al., "Ecological Wisdom of The Bajo Tribe in The Perspective of Fiqh al-Bi'ah and Green Constitution," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 19, no. 2 (2024): 470–95, <https://doi.org/10.19105/al-ihkam.v19i2.13894>; Hamzah et al., "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>.

<sup>23</sup> Basri, Masayuki Sakakibara, dan Koichiro Sera, "Mercury in soil and forage plants from artisanal and small-scale gold mining in the bombana area, Indonesia," *Toxics* 8, no. 1 (2020): 1–10, <https://doi.org/10.3390/toxics8010015>.

<sup>24</sup> Cora Wacker-Theodorakopoulos dan Christoph Kreienbaum, "Environmental damage and the question of liability," *Intereconomics* 27, no. 4 (1992): 157–64, <https://doi.org/10.1007/BF02926372>.

and landslide risks - making it mandatory under Shariah to halt such activities. Likewise, the principle of *saddu dzarā'i* (blocking the means to harm) obliges the state to proactively prevent these practices, for instance by dismantling illegal supply chains and targeting the financiers behind the mining operations.<sup>25</sup>

From the perspective of *maqāṣid al-sharī'ah* (the higher objectives of Islamic law), addressing illegal mining extends beyond administrative compliance to protecting the five essential values: religion (*dīn*), life (*naḥs*), intellect (*'aql*), progeny (*nasb*), and wealth (*māl*). Mercury contamination endangers human health and cognitive functions, the loss of productive land undermines livelihoods and food security, and the resulting social conflicts threaten generational stability.<sup>26</sup> Therefore, enforcement against illegal miners must aim not only to penalize low-level workers but also to dismantle the networks of financiers who profit at the expense of ecosystems and communities.

In practice, Islamic criminal law encourages sanctions that are both educational and rehabilitative. Beyond physical penalties, *ta'zīr* can involve spiritual reformation programs, environmental sermons (*dakwah ekologis*), and community empowerment initiatives to foster moral awareness that environmental destruction is a form of injustice (*zulm*) incurring divine displeasure.<sup>27</sup> This approach also mitigates over-criminalization of marginalized small-scale miners by focusing on major financiers and structural enablers who exploit economic vulnerabilities.<sup>28</sup>

The principle of *hisbah* – community based oversight under Islamic governance - can also serve as a tool to strengthen public participation in natural resource management.<sup>29</sup> In Jambur Tarutung, involving religious scholars, traditional leaders, and local communities in mining oversight could reduce societal resistance and enhance enforcement effectiveness.<sup>30</sup> This participatory approach highlights that Islamic criminal law enforcement is not a standalone mechanism but operates synergistically with positive law and socio-cultural norms.

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<sup>25</sup> Lumowa et al., “Promote Social Order to Achieve Social and Ecological Justice for Communities to Prevent Illegal Artisanal Small-Scale Gold Mining.”

<sup>26</sup> Mohamad, “Environmental Preservation and Water Pollution from the Islamic Perspective.”

<sup>27</sup> Lina Cao et al., “Towards sustainable and efficient land development: Risk of soil heavy metal(loid)s in abandoned gold mines with short-term rehabilitation and potential value for targeted remediation,” *Land Degradation & Development* 33, no. 18 (17 Desember 2022): 3855–69, <https://doi.org/10.1002/ldr.4428>.

<sup>28</sup> Ofori dan Ofori, “Digging for Gold or Justice? Misrecognition and Marginalization of ‘Illegal’ Small-Scale Miners in Ghana.”

<sup>29</sup> Sukarni Sukarni, “Gambut Muslim Community and Their Environmental Conservation; Intertwin among Fiqh, Economy, and Policy Factors,” *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 19, no. 2 (2024): 546–73, <https://doi.org/10.19105/al-lhkam.v19i2.14311>.

<sup>30</sup> Lumowa et al., “Promote Social Order to Achieve Social and Ecological Justice for Communities to Prevent Illegal Artisanal Small-Scale Gold Mining.”

Moreover, Islamic law calls for equitable and sustainable natural resource governance. The principle of justice (*al-'adl*) mandates that natural resources should not be monopolized by a few but managed for the collective good.<sup>31</sup> Thus, the state must not only prosecute illegal mining but also provide legal alternatives, such as environmentally friendly community mining permits (*IPR*) managed under cooperative schemes. This aligns with contemporary Islamic legal opinions, including the Indonesian Ulama Council's fatwa on environmentally responsible mining, which emphasizes sustainability and fairness.<sup>32</sup>

However, implementing these Shariah principles faces significant challenges. Economic pressures, low levels of legal and environmental literacy, and weak enforcement capacity often hinder effective application.<sup>33</sup> Corruption and the lack of political will at the local level exacerbate these issues, resulting in enforcement practices that are "sharp downward but blunt upward".<sup>34</sup> Thus, Shariah-based environmental enforcement must be complemented by institutional reforms, greater transparency, and robust public oversight.

Ultimately, the Islamic criminal law approach offers a more comprehensive solution than purely legalistic measures. By integrating strict sanctions, ecosystem restoration mechanisms, and enhanced community participation, law enforcement can become a substantive tool for achieving ecological justice. In this context, engaging religious scholars and faith-based institutions is crucial for providing moral legitimacy and strengthening public acceptance of government policies.<sup>35</sup>

In conclusion, the Islamic criminal law perspective on illegal gold mining in Jambur Tarutung Kotanopan provides an approach that goes beyond punitive measures to reconfigure environmental governance and build collective awareness. By combining normative, moral, and practical dimensions, this framework can help create a model of law enforcement that is just, sustainable, and aligned with Shariah values. Such enforcement not only addresses environmental crimes but also restores harmony between humanity, nature, and the divine principles underpinning Islamic law.

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<sup>31</sup> Ampaw et al., "Rethinking small-scale gold mining in Ghana: A holy grail for environmental stewardship and sustainability."

<sup>32</sup> Muhaimin, "Fatwa MUI Nomor 22 Tahun 2011 tentang Pertambangan Ramah Lingkungan Perspektif Maqashid Al-Syari'ah."

<sup>33</sup> Lina Cao et al., "Towards sustainable and efficient land development: Risk of soil heavy metal(loid)s in abandoned gold mines with short-term rehabilitation and potential value for targeted remediation," *Land Degradation & Development* 33, no. 18 (17 Desember 2022): 3855–69, <https://doi.org/10.1002/ldr.4428>.

<sup>34</sup> Ampaw et al., "Rethinking small-scale gold mining in Ghana: A holy grail for environmental stewardship and sustainability."

<sup>35</sup> Basri, Sakakibara, dan Sera, "Mercury in soil and forage plants from artisanal and small-scale gold mining in the bombana area, Indonesia."

#### 4. Conclusion

The enforcement of criminal law against illegal gold mining activities in Jambur Tarutung, Kotanopan, remains far from optimal, despite the existence of a clear legal framework under Law No. 3 of 2020 on Mineral and Coal Mining, particularly Article 158, which stipulates sanctions for unlicensed mining. In practice, law enforcement efforts are often hindered by weak supervision, limited resources and infrastructure, poor inter-agency coordination, and the involvement of certain actors that exacerbate the situation. This complexity is further compounded by the socio-economic realities of local communities who depend on illegal mining for their livelihoods, rendering purely repressive measures insufficient to create a deterrent effect or to restore the resulting damage.

From the perspective of Islamic criminal law, illegal mining practices can be classified as *jarimah ta'zīr* due to their elements of *fasad* (corruption or destruction), which harm the public interest, damage ecosystems, and threaten the sustainability of natural resources. Accordingly, sanctions imposed on perpetrators should reflect the discretionary authority of the *ulil amri* (legitimate ruler), encompassing not only retributive penalties such as imprisonment, fines, and confiscation of mining proceeds, but also restorative measures, including mandatory land rehabilitation and compensation for affected communities. Within the framework of Sharia, nature is regarded as a trust (*amanah*) that must be preserved for the common good, implying that enforcement should go beyond formalistic punishment and aim at fostering ecological awareness, strengthening moral responsibility, and restoring environmental balance.

Therefore, an effective model for law enforcement in Jambur Tarutung, Kotanopan, must adopt an integrative approach, combining the rigor of positive law with the principles of *maqāṣid al-sharī'ah* through the involvement of religious leaders, customary authorities, and the development of alternative economic empowerment programs for the community. Such a participatory strategy is expected to cultivate collective awareness to halt illegal mining practices, restore environmental damage, and establish a resource management system that is just, sustainable, and aligned with religious values.

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