

# Environmental Legal Responsibility Of Non-Metal And Rock Mining Business Persons In Sharia Perspective: Study In The City Of Tidore Islands

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DOI: 10.23917/jtl.v3i2.17792

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## **ABSTRACT**

Mining of non-metallic minerals and rocks is a natural resource from Allah SWT to be used properly and correctly for all of His creatures. In the City of Tidore, Islands, the use of these natural resources is illegal and does not have a mining permit. The consequences of mining activities include the physical impact of the environment being damaged such as land damage and forest damage, reduced water discharge on the ground surface, damage to public health, damage to public facilities found on roads, as well as causing community conflicts. The form of responsibility is carried out by limiting utilization activities, carrying out environmental restoration, as well as cooperation between the government and the community in supervising utilization actions that cause losses. Responsibility is not only on the government but public awareness is very important in environmental conservation efforts. In the Qur'an Surah al-Rum verse 41, it has been stated that "Corruption has appeared on land and at sea due to the actions of human hands, so that Allah may feel for them a part of (the consequences of) their actions, so that they will return (to the right path).)".

Keywords: Responsibility, Law, Mining, Sharia, Tidore

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## **INTRODUCTION**

The government as a representative of the state is given the right to manage natural resource wealth so that it is enjoyed by the people in a fair and equitable manner(Sangaji

2021). The existence of the mine is now increasingly becoming a topic of discussion among the government, due to the increasing interest of the community in the use of natural products as income to meet the needs of life.

Sand and rock have a strategic role and function in regional economic development. In addition to having a good impact on the community and increasing regional income, the use of sand and rock also has a negative impact on other communities. So the government must provide protection to people who experience the negative impact of these activities (Octalina 2014).

The activity of utilizing Natural Resources (SDA), often causes losses to the community around the use of these SDAs, especially floods and landslides during the rainy season. In the Environmental Protection and Management Law (UPPLH) Article 87 paragraph (1) states "*every business owner and activity that is against the law in the form of environmental pollution and destruction that causes harm to everyone or the environment is obliged to pay for the loss or take such action*".

On the other hand, Islam has offered many solutions to overcome environmental problems. Allah SWT and Prophet Muhammad saw, often remind their people to preserve the environment in order to avoid disasters. As a hanif religion, Islam in its moral message through the holy verses of the Qur'an, often greets its readers with a distinctive style, which only applies moral aspects rather than legal aspects in preserving nature (Harahap 2015). Several letters in the Qur'an, related to the environment, for example in Surah Al-A'raaf, Verse 56, Verse 85, Surah Al-Qashash; verse 77, and Surah Ar-Rum, verse 41

In the City of Tidore Islands, the use of natural resources in the form of non-metallic minerals and rocks, in reality has had a negative impact on the community and the surrounding environment. The high rainfall in the area causes various impacts on the local community. During the rainy season, which lasts a long time, floods often occur, and the excavation carried by the river flows to roads and residential areas.

### **Overview of Legal Protection**

Constitutionally based on the 1945 Constitution Article 28 D stanza (1) states "*every citizen has the right to a guarantee, protection, and clarity of rules that justice and applies equally before the law*". legal subject based on the legal provisions of arbitrariness (Harahap 2015).

The principle of protection/protection of law is basically Pancasila as the handle and basis of the state which is based on the concept of *Rechstaat* and Rule Of Law (H. Salim

2007). The basis of legal protection in the NKRI state is based on the legal protection of human rights and identity based on Pancasila. Then the legal protection of government actions is stacked and comes from the conception of the recognition and protection of human rights itself, a concept that originated in external (western) history, which is shown in the limitations and placement of obligations by government and society (Anon n.d.).

### **Environmental Protection in Islamic Concepts in relation to the Utilization of Natural Resources**

According to the Islamic concept for environmental issues in the management of natural resources, it is very necessary what is called environmental ethics. (Supramono 2010) Humans themselves determine to have good morals and maintain natural relations as God's creation, human relations with the surrounding natural environment. Islam provides the concept of grounding morality as an alternative solution in protecting the environment, the teachings of morality in question are: 1) Qana'ah-zuhud, 2) Ta'awun (helping) 3) Al-Rahmah and al-barr, 4) Al-Iqtishad (economical) (Kotijah 2011). Even the environment in mining in the perspective of the Islamic concept "*as one of the elements of the instrument for preventing pollution and/or environmental damage*". (Kotijah 2011)

In the conception of Islam, man is the caliph on earth. Etymologically, caliph is a word form of khulifun which means the right party replaces the position of the party who gave the trust. As for terminology, the word caliph has a functional meaning that means mandatory, that is, the party given responsibility by the giver of the mandate (Allah). Thus, man is His mandate on earth (Harahap 2015).

This means that the Earth and all that is in it was created by God for humans. Therefore, humans are ordered to do good and are forbidden to do harm on this earth (Ka' Ban 2007).

### **The Concept of Non -Metallic Mineral Mining and Rocks**

#### **1. Definition and Basics of Mining**

Law Number 3 of 2020 Article 1 paragraph (1) states "mining is half of the stages of activity in the context of research, management and exploitation of minerals and coal which include general investigation, search, feasibility study, building, mining, processing and refining, transportation and marketing, and post-mining activities. While the legal principles of mining according to the legislation number 3 of 2020 are divided into four types, including (Pemerintah Republik Indonesia 2020):

- a. The Principle of Benefit, Fairness, and Balance

- b. The Principle of Partisanship to the Interests of the State
  - c. Principles of Participatory, Transparency and Accountability
  - d. Sustainable and Environmentally Friendly Principles
2. The concept of sand and rock and its benefits to society

The existence of sand has enormous benefits for the community, the most important benefit of sand is as a building material. When sand is paired with cement and water is added, the mixture of the three can help builders build houses. The combination of the three can glue the bricks so that they can make the building as desired.

Rock is a combination of similar or dissimilar minerals that are bound together or solidly(Anon n.d.). Surprisingly on the type of mineral, the stone does not have a fixed chemical composition, and is not the same(Setiawan 2020). According to Geologists, rocks are the constituents of minerals and organic matter that make up the earth's crust, and rocks are all the materials that make up the earth's crust. In general, rocks are a combination of several minerals that are not the same, and do not have a fixed chemical texture(Anon n.d.).

## **RESEARCH METHOD**

### **1. Research Type**

The type of research in this research is Legal-Empirical research. According to Sri Mamuji and Soerjono Soekanto, explaining empirical or sociological legal research is a legal search carried out by searching for primary materials(Soekanto and Mamudji 2001).

### **2. Research Sites**

The research location is an application for the author to obtain sources of information according to the materials needed from a study, namely the City of Tidore Islands.

### **3. Data Source**

To resolve legal issues and provide guidance regarding what should be needed as research sources. In empirical legal research the forms of data used are:

- a. Primary Data
- b. Secondary Data

## **Data Collection Techniques**

In data collection techniques, the authors use two ways as follows:

### **1. Interview**

Interview is a conversation between the researcher and the person being interviewed directly to ask the problem to be raised.(Marzuki 2015) In this method, the writer conducts

a question-and-answer session or interviews with parties related to the object of research (Amirudin and Asikin 2012).

In this technique the author will conduct a question and answer with the following parties:

- a. DLH (environmental service) Tidore Islands agency.
- b. Village Head.
  - Tambula Village,
  - Tuguiha Village,
  - Dokiri Village, and
  - Tosa Village.
- c. Public.

## **2. Literature Research**

Bibliography is a technique used to collect various explanations and aid materials such as reviewing archives, magazines and other related materials (Amirudin and Asikin 2012).

### **Data Analysis Techniques**

The steps taken by researchers in analyzing this research are to collect information and data through interviews with the government and local communities. Then it is analyzed (Qualitatively Descriptive) which is a method of data analysis by grouping and selecting the data obtained from the research according to its quality and correctness. This analysis does not only use legal material analysis, but also uses Islamic law materials as a reference for analysis, especially the Qur'an and hadith

## **RESULTS & DISCUSSION**

The existence of sand and rocks in the City of Tidore Islands has become an interest for every community as a business actor to take advantage of these natural products as basic materials in making a building and other uses. Utilization of the excavation results has been carried out since 2018. So far, mining activities have become a routine activity for business actors who benefit from the excavation.

In addition to providing results for the community, this also has a great opportunity for regional income levels. The existence of the mine has a good influence on the local community in utilizing natural products to improve their quality of life. In addition, the mining sector also has considerable potential in improving the country's economy. However, every activity utilizing natural potential products such as sand and rock must also have

procedures according to the provisions stipulated in the legislation. This is so that each use of natural resources does not have a negative impact on other communities and the surrounding environment.

It is human activity that causes environmental damage, in the form of uncontrolled use of sand and rocks. Whereas in the Qur'an Allah has reminded especially in Surah Al-A`raf verse 56: it is stated that "do not do mischief on the earth after Allah has repaired it and pray to Him with fear (will not be accepted) and hope. (will be accepted). Verily, the mercy of Allah is near to those who do good."

Several locations of the use of sand and rock in Tikep City which have a negative impact on the community, especially in Tambula Village, Tuguiha Village, Dokiri Village, and Tosa Village, for example forest damage, damage to road facilities, destroying soil structure, causing environmental pollution, threats to residents' houses around the mining site and Disturbing Health(Soemarwoto 2004).

Even at the beginning, the use of natural resources was only by using simple (traditional) tools to using modern tools today. The high level of utilization carried out greatly affects changes in soil formation and environmental sustainability due to transportation of excavations by vehicles causing various pollutions and damaging public health.

Damage to the environment is very disturbing to the local community because every community has the right according to the provisions to live in a healthy environment.

The concept of Islam, on environmental protection, begins with an illustration of a teacher explaining to his students about the environment "the tree must be protected, preserved, it should not be cut down not because it provides shade for us but must be respected as a creation of Allah SWT", based on the Hadith of the Prophet SAW "Whoever loves what is on earth then he will be loved by all that is in the sky". The environment is one part of the earth by it must be maintained and preserved as a form of concern to manifest a sense of love and affection for Allah's creation. In this case, moral behavior in the Islamic religion, giving a warning for this or that action related to the environment is permissible(Kotijah 2011).

The form of responsibility of the owner of the mines in each kelurahan shows that business actors have not fully given responsibility to the environment. This can be shown from mining activities that do not use permits according to the stipulated provisions and procedures.

By regulation, it is regulated in Law 32 of 2009 concerning PPLH in Article 65 paragraph Article 87 (1), and in Article 1365 of the Civil Code. Mining activities of sand and rock in the Tikep area contained in some of the Villages in question are already contradictory with these provisions. Therefore, due to the bad consequences experienced and the lack of environmental responsibility carried out, it is strictly necessary to take action to stop mining activities in order to maintain the comfort of the community and preserve the environment in the City of Tidore Islands.

Isn't it in the Qur'an surah al-Rum verse 41, it has been stated that "Corruption has appeared on land at sea due to the actions of human hands, so that Allah may feel for them a part of (the consequences of) their actions, so that they will return (to the right path)."

## **CONCLUSION**

It is known that mining activities of sand and rock types in the Tikep area have been used since 2013, until now, the mining activities are carried out by some people who own the land and then manage it according to the needs of building materials to the level of sales. Along with the development, the existence of operating heavy equipment greatly facilitates the utilization process carried out. Various requests for building materials are a distinct advantage for every business actor. However, these activities also have a negative impact on environmental damage found in some of the locations mentioned above. The consequences arising from mining activities are the physical impact of the environment being damaged such as land damage and forest damage, reduced water discharge on the ground surface, damage to public health, damage to public facilities such as roads, and often causes conflicts between business actors and the surrounding community. The importance of preserving the environment is something that must be done as a shared responsibility. In an effort to be responsible for the part of the community (business actors) who carry out mining, they pay less attention to environmental sustainability. In fact, based on the provisions regulated, everyone has a responsible attitude in protecting the environment. The presence of illegal mining is not responsible for environmental sustainability, this can be seen in a number of damages caused by mining activities. However, the Kelurahan and the local community still carry out strict supervision of business actors who take actions that damage the environment. So far, the Environmental Service of Tidore Islands City has made efforts by giving warnings

to business owners and if it harms the environment, strict action will be taken by stopping mining activities.

Therefore, what is taught in the Qur'an and Hadith, should be instilled in every human body and soul, because humans and the environment are two very related things, because only by managing and utilizing natural resources properly and correctly will sustainability be maintained. These natural resources are for the survival of future generations.

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