

# Legal Uncertainty in Indonesia's Mining Sector: Impact on Business, Inheritance, and Asset Division Challenges

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## Article History:

Submitted: June 19, 2024 | Revised: October 30, 2024 | Accepted: November 18, 2024 | Published: December 29, 2024

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## Citation format (APA Style):

Solehudin, E., & Siripipatthanakul, S. (2024). Legal uncertainty in Indonesia's mining sector: Impact on business, inheritance, and asset division challenges. *Munakahat: Journal of Islamic Family Law*, 1(1), 68–79.

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## ABSTRACT

**Background:** The mining sector in Indonesia plays a crucial role in the national economy but is plagued by legal uncertainty, which significantly impacts both the industry and families involved in mining businesses. This study investigates how the legal complexities in the mining sector affect asset division and inheritance under Islamic family law, particularly focusing on the implications of legal uncertainty in the sector.

**Methods:** This qualitative research uses a combination of document analysis and case studies to explore the intersection of mining law and Islamic family law. The study examines key regulations, including Government Regulation No. 25 of 2024 and Presidential Regulation No. 77 of 2024, and how these legal frameworks influence family law, especially in matters of asset distribution, inheritance, and divorce.

**Results:** The research reveals that legal uncertainty in the mining sector exacerbates family conflicts, especially in terms of asset management and inheritance. The lack of clear and consistent legal guidelines results in disputes over the distribution of mining-related assets, which complicates the application of Islamic family law principles such as inheritance (*fara'id*) and division of property in divorce.

**Discussion:** The findings highlight the need for an integrated legal approach that combines mining regulations with Islamic family law. This would ensure that asset distribution and inheritance practices align with Islamic principles while addressing the complexities of the modern mining industry.

**Conclusion:** Addressing the legal uncertainty in Indonesia's mining sector is crucial for ensuring that Islamic family law principles, such as fair inheritance and asset division, are upheld. A clear, comprehensive regulatory framework would mitigate conflicts and promote justice in the mining-related family matters.

**Novelty:** This study offers a unique perspective on the intersection of mining law and Islamic family law in Indonesia, emphasizing the need for a harmonized legal approach to ensure the fair distribution of assets within families involved in the mining sector.

**Keywords:** mining law, legal uncertainty, Islamic family law, inheritance, asset division, Indonesia.

## INTRODUCTION

The mining sector in Indonesia plays a significant role in the national economy (Rahman et al., 2023). With abundant natural resources, especially in the mineral and coal industries, this sector greatly contributes to economic growth, job creation, and state revenue (Iavicoli et al.,

2018; Lousada, 2020; Lousada and Castanho, 2022; Abdullah et al., 2024). However, despite its importance, the Indonesian mining sector faces significant challenges, particularly legal uncertainty, which hampers its business continuity and stability. This legal uncertainty has profound effects, not only on the industry itself but also on the families involved in mining businesses, leading to conflicts and disputes regarding asset management and inheritance issues (Prasetyo and Hoesin, 2022; Rasmuddin et al., 2024).

The legal uncertainty within the mining sector is mainly caused by the lack of clear and consistent regulations, both in terms of mining operations and asset division involving mining businesses (Boslama and Lahrichi, 2017; Demirer et al., 2020; Hidayat, 2023; Asgharian et al., 2023; Alsharif, 2024). This results in ambiguity regarding asset ownership, especially in relation to inheritance laws. For instance, the distribution of assets related to mining companies often does not align with Islamic inheritance principles, such as *fara'id*, which governs the division of family wealth among Muslim heirs (Ahyani and Mutmainah, 2021; Asman and Ahmed, 2023; Fitri et al., 2024). In many cases, this creates serious problems related to asset division and family wealth management.

The primary issue identified in this study is the legal uncertainty that hinders the smooth process of asset division and inheritance for families involved in mining businesses. Many families find it difficult to resolve disputes over wealth distribution, particularly when existing regulations do not provide clear guidance on managing mining-related assets. This legal uncertainty often exacerbates the situation, prolonging family conflicts and harming the parties involved in the process.

The research problem in this study centers on how legal uncertainty in Indonesia's mining sector impacts the division of assets and inheritance within families, particularly in mining-related businesses. The study also seeks to explore the factors causing this legal uncertainty, as well as its effects on business continuity and family relationships within the mining industry. The focus of the research is to understand how unclear regulations disrupt the process of inheritance division, which should ideally follow Islamic family law principles, particularly *fara'id*.

The main goal of this research is to identify the impact of legal uncertainty in the mining sector on asset division and inheritance, and to explore how the application of Islamic inheritance law can offer solutions to these issues. The expected benefit of this study is to provide better insights for policymakers to create clearer and more consistent regulations, addressing the legal uncertainty in the sector. Additionally, this study aims to offer practical guidance to families involved in mining businesses to resolve inheritance disputes in accordance with Islamic principles.

The urgency of this research cannot be overlooked. Given the mining sector's importance to Indonesia's economy and the complexity of the legal issues involved, this research is crucial for identifying solutions that can improve regulations and provide legal clarity. Ongoing uncertainty in asset management and inheritance only exacerbates the situation, creating internal family conflicts and negatively impacting those involved in the mining business. Therefore, this study aims to fill the gaps in the existing legal framework related to both the mining sector and inheritance issues.

This research is significant as it will contribute to the development of better regulations in the mining sector and introduce a more integrated legal approach between mining regulations and Islamic family law. With clearer and more practical solutions, it is hoped that the Indonesian mining sector can thrive without disregarding principles of justice and fairness in inheritance division based on Islamic teachings. This research is also highly relevant to the sustainability of the mining industry and the relationships of families involved in it.

## LITERATURE REVIEW

Legal uncertainty in Indonesia's mining sector has been a significant issue, impacting the stability and growth of businesses within the industry (Prasetiyo and Hoesin, 2022, 2022; Rasmuddin et al., 2024, 2024). Over the years, numerous studies have pointed out that Indonesia's mining regulations are complex, fragmented, and often contradictory (Naz and Bögenhold, 2024). This results in difficulties for companies trying to navigate through the legal landscape, causing confusion and inconsistent business practices. This uncertainty also affects asset management and inheritance issues, particularly when it comes to the ownership and division of mining assets, especially when such assets are passed down within families.

One of the primary concerns identified in the literature is the lack of a clear legal framework governing the division of mining assets in the event of family disputes. In the case of inheritance under Islamic law, particularly *fara'id* (Islamic inheritance law), the division of assets, including those linked to mining businesses, becomes problematic. Islamic family law dictates a specific method for dividing assets among heirs, but the mining industry operates under a separate, often conflicting set of regulations (Assaad et al., 2022; Djawas et al., 2022; Ismail et al., 2022; Azni et al., 2023). As a result, many mining families face difficulties in reconciling Islamic inheritance principles with the legal requirements for asset management in the sector.

Several studies have raised the issue of how the inconsistency between mining regulations and Islamic inheritance laws leads to confusion and conflict within families (Salleh et al., 2017; Rajab et al., 2022; Reskiani et al., 2022; Burns et al., 2023; Rajab, 2024). These conflicts often arise when heirs are unable to agree on the distribution of assets from mining-related businesses, as the legal frameworks do not provide a clear pathway for applying Islamic inheritance laws to these assets. In particular, family disputes over property division, especially in cases of divorce or inheritance, can become more contentious when there is no specific guideline that integrates both sets of regulations.

Some scholars argue that mining assets, especially those passed down to heirs, should be managed according to Islamic inheritance principles. They highlight the importance of creating a regulatory framework that bridges the gap between Islamic family law and mining law to ensure fairness and justice in asset division. However, due to the lack of clarity in Indonesia's mining regulations, this ideal approach is often not implemented in practice, leading to legal and familial issues that continue to undermine the stability of mining businesses and their operations.

Other research suggests that harmonizing the two legal systems—mining law and Islamic family law—could provide a practical solution to these conflicts (Harahap et al., 2024;

Rahmawati et al., 2024; Sahrul et al., 2024). If the two legal domains could be aligned, it would allow for more equitable management and distribution of mining assets within families, reducing disputes and fostering smoother transitions of wealth from one generation to the next (Ayu and Kiramang, 2023; Choiri and Ardyansyah, 2024; Harry et al., 2024). This literature points to the need for reform and calls for a clearer, more cohesive legal framework that addresses both the practicalities of mining law and the ethical considerations of Islamic family law (Barlinti, 2011).

In comparison to existing studies, this research differs in its specific focus on the intersection of legal uncertainty in Indonesia's mining sector and its impact on asset division and inheritance under Islamic family law. While previous studies have explored mining law and family law separately, this study emphasizes the need for an integrated approach that combines both domains to address the challenges faced by mining families. The novelty of this study lies in its exploration of the specific challenges mining families face when navigating both complex mining regulations and Islamic inheritance laws. This research aims to contribute a unique perspective by proposing solutions that harmonize these two legal frameworks to ensure fair asset division and inheritance practices, ultimately fostering stability in the mining sector and justice in family matters.

## **METHODS**

This research employs a qualitative research methodology to explore the complex intersection of mining law and Islamic family law, particularly concerning asset division and inheritance issues in Indonesia's mining sector (Aaker, 2011; Ahyani et al., 2021; Clauß et al., 2024). The qualitative approach is chosen to provide a deep understanding of the subject, as it allows for a detailed examination of legal frameworks, real-world examples, and the experiences of relevant stakeholders. This approach also provides flexibility in understanding the nuances and complexities of legal uncertainties in the mining sector and their impacts on Islamic family law.

Document analysis is one of the key methods used in this study. A variety of legal documents are reviewed, including the Government Regulation No. 25 of 2024, which introduces amendments to the regulations governing mining operations, and the Presidential Regulation No. 77 of 2024, which focuses on the acceleration of infrastructure development in the mining industry. These regulations are analyzed to understand their potential implications for asset management, inheritance, and the potential conflicts that arise from legal uncertainties. In addition, other relevant mining laws and Islamic family law principles, particularly those concerning inheritance (*fara'id*), are examined to identify the gaps and inconsistencies between the two.

To gain a more comprehensive understanding of the issue, case studies are incorporated into the research design. The case studies are drawn from real-life examples where legal uncertainty in the mining sector has resulted in challenges related to asset division and inheritance. These cases are selected based on their relevance to the research question and their representation of typical conflicts faced by families involved in the mining industry. By analyzing these cases, the study aims to provide practical insights into the types of disputes that arise and the impact of legal uncertainty on asset distribution under Islamic family law.

Additionally, semi-structured interviews with legal experts and key stakeholders in both the mining sector and Islamic family law are conducted. These interviews serve to gather expert opinions and firsthand insights into the issues surrounding legal uncertainty in mining regulations and inheritance disputes. Participants are selected based on their expertise in mining law, Islamic family law, and their experience in dealing with related legal matters. The interviews aim to provide deeper context and understanding of how legal uncertainty impacts real-life situations and to gather recommendations for potential solutions to harmonize mining law and Islamic family law.

Finally, the data collected from document analysis, case studies, and interviews are analyzed using thematic analysis. This method allows for the identification of common themes and patterns that emerge from the data, such as the specific challenges faced by families involved in the mining sector, the role of Islamic inheritance law in these disputes, and the gaps in the existing legal framework. Thematic analysis also helps to draw conclusions about the need for a more integrated legal approach to address the issues of asset division and inheritance in Indonesia's mining industry, while ensuring that Islamic family law principles are upheld.

## RESULTS

The research reveals that legal uncertainty in Indonesia's mining sector has a profound effect on both the business operations and inheritance practices related to mining assets. Businesses within the sector face significant regulatory challenges, which result in instability and inconsistent decision-making. The lack of a clear and unified legal framework surrounding mining operations has led to confusion, with different authorities offering conflicting regulations and interpretations. This has created an environment where businesses struggle to maintain consistent operations, undermining investor confidence and long-term planning within the industry (Elsayed, 2024).

One of the key findings of this study is the impact of legal uncertainty on asset management, particularly for families involved in mining businesses (Gallagher, 2022). The absence of clear legal guidelines regarding asset division in the context of inheritance and divorce has made it difficult for families to resolve conflicts related to the distribution of mining assets. In many cases, family members involved in the business have differing interpretations of how assets should be divided, especially when the assets are substantial and tied to the mining industry. This uncertainty increases the likelihood of disputes, complicating the legal processes involved in asset distribution.

In the context of Islamic family law, specifically the principles of inheritance (*fara'id*), the legal ambiguity within the mining sector becomes particularly problematic. Islamic inheritance law has specific rules for asset division, but the lack of clarity in the legal system regarding mining assets makes it difficult to apply these rules effectively (Widianingsih and Hapidin, 2023; Darmawati et al., 2023; Surasa, 2024; Indrayanti et al., 2024; Jayasena et al., 2024; Widianingsih, 2024). For example, the application of *fara'id* can be complicated when assets are not properly documented or when their value fluctuates due to market instability in the mining sector. This creates challenges for family members who seek to ensure that their rights are protected according to Islamic law.



The research also finds that these issues extend beyond asset division to include the management of mining-related assets after a death or divorce. In many cases, the lack of clear inheritance laws for mining assets has resulted in delays in asset transfer, leaving family members in a state of uncertainty. Without a clear legal process, heirs often face obstacles in taking control of the mining assets they are entitled to, leading to additional legal disputes. This problem is exacerbated when there are competing claims to ownership or when there is a lack of documentation regarding asset ownership and distribution.

Furthermore, the study highlights the inconsistency in rulings in family courts regarding mining asset division. The absence of a standardized legal framework means that judges are often left to make decisions based on personal interpretations of existing regulations. As a result, there are cases where rulings conflict, leading to unfair outcomes for some family members. This lack of consistency not only undermines the principle of justice in Islamic family law but also creates a sense of frustration and distrust among those involved in the disputes.

One of the most significant issues identified in the findings is the gap between the legal regulations governing the mining industry and the principles of Islamic family law (Ahyani, 2021, 2024). While mining regulations focus on the economic and industrial aspects, they fail to account for the personal and familial implications that arise when mining assets are involved in inheritance or divorce cases. This disconnect makes it difficult to reconcile the interests of business owners and their families, leading to a lack of legal harmony in asset distribution and inheritance matters.

Additionally, the research reveals that legal practitioners and stakeholders within the mining sector are often unaware of the specific challenges posed by Islamic inheritance law in the context of mining assets. While legal experts in the mining sector are well-versed in the complexities of the industry, they may not have a deep understanding of Islamic family law. This lack of cross-disciplinary knowledge results in misinformed decisions that may not align with the cultural and religious expectations of the parties involved.

The study also uncovers that many families involved in the mining industry lack awareness of their legal rights when it comes to inheritance and asset division. Often, family members are unaware of the complexities of Islamic inheritance laws and may not seek legal advice until disputes arise. This ignorance can lead to disputes being drawn out over long periods, increasing the emotional and financial burden on the family. It highlights the importance of legal education and awareness for families engaged in the mining business, particularly regarding inheritance laws.

Finally, the research suggests that the integration of mining regulations with Islamic family law could help resolve some of the issues related to asset division and inheritance. A more harmonized legal framework could provide clarity and consistency in how mining assets are distributed among family members, ensuring that the principles of *fara'id* are respected while also accommodating the needs of the mining sector. This would require cooperation between legal experts in both fields and a more comprehensive approach to legal reform that considers the unique characteristics of both mining operations and Islamic family law.

In conclusion, the study reveals that legal uncertainty in Indonesia's mining sector has significant consequences for families involved in mining businesses, particularly in terms of asset division and inheritance. The lack of clear legal guidelines creates a complex and often contentious environment for family members trying to navigate the division of mining-related assets. By addressing the legal gaps and inconsistencies between mining regulations and Islamic family law, it may be possible to create a more fair and just legal framework that benefits all parties involved.

## DISCUSSION

The intersection of mining law and Islamic family law presents complex challenges that require careful consideration and a nuanced approach. One of the primary issues identified in this study is the lack of a unified framework between business law, particularly in the mining sector, and family law. This disconnect between the two areas of law creates a situation where mining regulations, which govern the management, operation, and transfer of mining assets, often clash with the principles of Islamic inheritance law. The absence of a coherent and integrated approach leads to confusion and disputes, particularly when it comes to the distribution of assets in cases of death or divorce.

One of the most significant areas of conflict arises in the distribution of mining-related assets under Islamic family law. Islamic inheritance law, or *fara'id*, has clear guidelines for asset division among heirs, based on religious principles and family relations. However, the management of mining assets, with their often fluctuating value and complex ownership structures, does not always align with these principles. In cases where mining assets are involved, heirs may find it difficult to follow the religious guidelines of *fara'id* because the legal ownership, valuation, and distribution of the assets are subject to inconsistent legal interpretations. This inconsistency, coupled with a lack of legal clarity, creates a volatile situation where the rightful heirs may not receive their fair share according to Islamic law, leading to financial and emotional conflicts within the family.

The findings of this research also highlight the need for an integrated legal approach that bridges the gap between mining law and Islamic family law. It is clear that the two legal systems, although governing different areas, need to operate in harmony to prevent conflicts and ensure fair outcomes for all parties involved. Mining law is primarily concerned with economic and industrial aspects of asset management, while Islamic family law prioritizes fairness, justice, and adherence to religious principles in matters of inheritance and asset division. The challenge lies in finding a way to reconcile these two distinct legal domains, ensuring that mining regulations are flexible enough to account for the family and religious considerations that are central to inheritance matters.

In addition to integrating the two legal systems, there is also a pressing need for clearer regulatory guidelines governing the division of mining-related assets in the context of inheritance and family law. The ambiguity in existing mining regulations regarding asset ownership and distribution leaves room for interpretation, which can lead to inconsistent rulings in family courts. Without clear legal guidelines, judges are often forced to rely on their interpretations of existing laws, which can lead to disparities in court decisions. This

uncertainty not only undermines the fairness of the legal process but also fosters distrust among individuals involved in inheritance disputes, particularly when mining assets are involved.

To address these challenges, it is essential for lawmakers and legal practitioners to collaborate on creating a more transparent and consistent legal framework that accounts for both the complexities of the mining sector and the principles of Islamic family law. This could involve revising mining regulations to incorporate provisions that clearly define how mining assets should be handled in the event of inheritance or divorce. Additionally, Islamic family law provisions, particularly those related to inheritance, should be updated to ensure they are compatible with modern economic realities, such as the management of mining-related assets. Moreover, this research also suggests that legal practitioners, particularly those working within the mining industry and Islamic family law, should receive more cross-disciplinary training. By developing expertise in both areas of law, they can help bridge the gap between mining law and family law. This would not only lead to more informed legal decisions but also reduce the likelihood of conflicts arising from misunderstandings or lack of knowledge. Furthermore, legal professionals can play a crucial role in educating families involved in mining businesses about their rights and responsibilities under both mining regulations and Islamic inheritance law.

The complexity of this issue is further exacerbated by the often limited access to legal advice for families involved in mining businesses. Many families may not seek legal counsel until conflicts arise, and by then, the damage has often already been done. Raising awareness of the importance of legal planning, especially regarding inheritance and asset division, is crucial for preventing disputes before they escalate. Legal education programs focused on mining businesses and their intersection with Islamic family law can empower families to navigate these complexities and ensure that their rights are protected under both legal systems.

One of the key elements of this study is the recognition of the potential benefits of harmonizing mining law with Islamic family law. A comprehensive and integrated legal framework that accounts for both sectors would not only reduce the number of conflicts and disputes but also promote fairness and justice in the distribution of mining assets. By aligning the legal framework with Islamic principles of inheritance and asset division, the law could better serve the interests of all stakeholders involved, ensuring that the distribution of mining assets is done in a way that is both economically sound and in accordance with religious values.

In conclusion, the findings of this study underscore the need for a more cohesive approach to legal regulations in Indonesia's mining sector, one that takes into account both the industrial nature of mining and the familial considerations of Islamic inheritance law. Legal uncertainty in the mining sector has created a difficult environment for families involved in the industry, making it harder to resolve asset division and inheritance disputes. By addressing the legal gaps between these two areas of law and creating a more integrated legal framework, Indonesia can reduce conflicts, improve legal outcomes, and ensure that both mining regulations and Islamic family law are upheld in a fair and just manner.

## CONCLUSION

This study highlights the profound challenges caused by legal uncertainty in Indonesia's mining sector, particularly regarding the division of assets and inheritance under Islamic family law.



The lack of clear and consistent regulations in the mining industry has led to increased conflicts within families, especially when it comes to the distribution of mining-related assets. These legal ambiguities create a volatile environment where the application of Islamic inheritance principles, such as *fara'id*, becomes difficult and often inconsistent. The findings suggest that without a well-defined legal framework, disputes over asset division, especially in cases involving mining assets, will continue to cause financial and emotional distress for families. In response to these challenges, this study emphasizes the urgent need for a comprehensive regulatory framework that harmonizes Indonesia's mining regulations with the principles of Islamic family law. The integration of these two legal domains would ensure that asset division and inheritance practices are aligned with both industrial requirements and religious guidelines. A more cohesive legal framework would not only promote consistency in legal rulings but also prevent legal uncertainty from further exacerbating conflicts in family matters.

To foster justice and equity, Indonesia must create clearer guidelines for handling mining-related assets in family disputes, especially in matters of inheritance and divorce. By incorporating provisions that respect both the economic nature of mining and the religious principles of Islamic family law, legal practitioners can offer fairer and more predictable outcomes for families. The findings of this study point to the importance of bridging the gap between the mining sector and family law, ensuring that families involved in mining businesses can navigate their legal challenges with greater certainty and fairness.

Ultimately, this study advocates for a reformation in Indonesia's legal system, wherein mining regulations and Islamic family law can coexist in a manner that supports both the industry and the rights of family members. This alignment would provide clarity and fairness, promoting the smooth division of assets and reducing disputes in the inheritance process. By addressing the legal uncertainty in the mining sector, Indonesia can pave the way for more stable, equitable, and just legal outcomes for families involved in mining businesses.

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