

INHIBITING FACTORS IN THE ENFORCEMENT OF CRIMINAL LAW AGAINST ILLEGAL MINING: A CASE STUDY IN SOUTH SUMATRA

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Abstract

Mineral and coal resources in Indonesia, particularly in South Sumatra Province, are non-renewable natural resources whose management is constitutionally mandated to be controlled by the state for the greatest benefit of the people. Despite this mandate, illegal mining activities remain widespread and pose serious challenges to criminal law enforcement. This study aims to analyze the inhibiting factors affecting the effectiveness of criminal law enforcement against illegal mining crimes within the jurisdiction of the South Sumatra Regional Police. This research employs a normative juridical method using statutory and conceptual approaches, supported by an analysis of law enforcement practices. The findings indicate that the primary obstacles to effective law enforcement stem from internal factors within law enforcement institutions, including limited personnel capacity, inadequate competence, corrupt practices, conflicts of interest, and insufficient facilities and infrastructure. These constraints are exacerbated by the high number of illegal mining cases, with at least 77 cases recorded over the past three years, which overwhelms the existing institutional capacity. The study concludes that strengthening institutional capacity, enhancing professionalism and integrity of law enforcement officers, improving inter-agency coordination, and providing adequate resources are essential to ensure effective, fair, and sustainable criminal law enforcement against illegal mining activities.

Keywords: inhibiting factors, criminal law enforcement, illegal mining.

I. INTRODUCTION

Mineral and coal mining plays a strategic role in Indonesia's national economy, particularly in resource-rich regions such as South Sumatra Province. As non-renewable natural resources, minerals and coal are constitutionally mandated to be controlled by the state and utilized for the greatest benefit of the people, as stipulated in Article 33 paragraph (3) of the 1945 Constitution of the

Republic of Indonesia. However, the economic significance of the mining sector is accompanied by persistent legal and environmental challenges, notably the widespread practice of illegal mining.¹

In carrying out mining activities in Indonesia, every business actor is required to have a Mining Business Permit (IUP), which grants permission to carry out mining activities. These activities cover various

¹ Jeanne Darc Noviyanti Manik, 'Pengelolaan Pertambangan Yang Berdampak Lingkungan Di

Indonesia', *Jurnal System*, 1.1 (2018), pp. 274–82
<<https://core.ac.uk/download/pdf/229876171.pdf>>.

stages, starting from investigation, exploration, feasibility studies, construction, mining, processing, transportation, sales, to post-mining activities. IUP can be submitted by business entities, cooperatives, or individuals, including local residents who also have the right to apply for a People's Mining Permit (IPR). However, if mining activities do not have an IUP, then these activities can be considered illegal mining. One example that occurred in the Bangka Belitung Islands Province showed state losses reaching IDR 271 trillion due to illegal mining. The Attorney General's Office has named a number of suspects related to alleged corruption in tin mining that damaged the environment in the mining business permit area of PT Timah Tbk in the period 2015-2022.²

The 1945 Constitution of the Republic of Indonesia, specifically Article 33 paragraph (3), mandates that the earth, water, and natural resources contained therein are controlled by the state and utilized for the prosperity of the people. As a country of law, Indonesia realizes the importance of the mining sector in supporting sustainable development and the welfare of the people. Indonesia is known to be rich in various natural resources, including silver, gold, oil, natural gas, copper, and coal.³

In the framework of a state based on the principle of justice, as stated in Article 1 paragraph 3 of the 1945 Constitution, illegal mining perpetrators must be responsible for their actions by undergoing sanctions in accordance with applicable laws and regulations. Several cases of illegal mining that have attracted public attention include illegal zircon sand mining in the forest area of Pesaguan District, Ketapang Regency, West Kalimantan, involving three companies. The three companies have been named as suspects by the Ministry of Environment and Forestry, because they are considered to have violated Law Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, with the threat of imprisonment and a fairly large fine.⁴

In 2020, Indonesia recorded a significant achievement in law enforcement related to illegal mining, with illegal miners being sentenced to multiple criminal sentences. The Koba District Court, Central Bangka Regency, decided to sentence illegal miners who were proven to have committed two violations at once—mining without a permit in a forest area and causing environmental damage. The perpetrators were charged with two laws, namely Law Number 18 of 2013 concerning

² Sarah D. L. Roeroe Friskilia Junisa Bastiana Darongke, Dientje Rumimpunu, 'Efektivitas Undang-Undang Nomor 3 Tahun 2020 Dalam Pemberian Izin Usaha Pertambangan Mineral Di Indonesia', *Lex Privatum*, 2022, p. 1 <<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/41456>>.

³ Febrian Ikwal and Murad MS, 'Perhitungan Sumberdaya Batubara Dan Permodelan Pit 2 Pada PT.

Andhika Yoga Pratama (AYP)', *Jurnal Bina Tambang*, 4.1 (2019), pp. 297-306.

⁴ Agung Mambi, Olga A. Pangkerego, and Roosje M. S. Sarapun, 'Tinjauan Yuridis Dampak Tambang Galian C Ilegal Terhadap Kerusakan Lingkungan Di Wilayah Kabupaten Toraja Utara', 1, 2016, pp. 1-23.

the Prevention and Eradication of Forest Destruction and Law Number 32 of 2009 concerning Environmental Protection and Management.⁵

In 2023, the problem of illegal mining again attracted the attention of the government through the People's Representative Council (DPR) of the Republic of Indonesia. Commission VII of the DPR formed a Working Committee (Panja) on Illegal Mining to handle this issue in more depth. Based on the data collected, coal is the commodity with the highest level of illegal mining, followed by nickel. According to the Ministry of Energy and Mineral Resources (ESDM) in 2021, there were 2,700 illegal mining locations (PETI) in Indonesia, consisting of 2,645 illegal mineral mining locations and 96 illegal coal mining locations.⁶

In South Sumatra Province, the number of illegal mining cases has shown a significant increase in the last two years, indicating a growing challenge in dealing with illegal mining practices in the region. Thus, this study will examine how slow and ineffective legal processes contribute to the failure of criminal law enforcement against illegal mining in the South Sumatra Regional Police Area.

Therefore, this study aims to analyze the inhibiting factors contributing to the slow and

ineffective enforcement of criminal law against illegal mining within the jurisdiction of the South Sumatra Regional Police. By examining legal norms and enforcement practices, this research seeks to identify structural, institutional, and procedural obstacles that hinder effective law enforcement and to propose strategies for strengthening criminal justice responses to illegal mining activities

II. RESEARCH METHOD

This study employs normative legal research, which focuses on examining legal norms, principles, and doctrines governing criminal law enforcement against illegal mining activities. Normative legal research emphasizes the analysis of secondary legal materials, including statutory regulations, legal doctrines, court decisions, and scholarly opinions, in order to understand the coherence and effectiveness of the existing legal framework.⁷

The research applies several approaches, namely the statutory approach, to examine laws and regulations related to mineral and coal mining as well as criminal law enforcement; the conceptual approach, to analyze legal concepts such as state control over natural resources, illegal mining, and law

⁵ Abdul Latif Mahfuz, 'Faktor Yang Mempengaruhi Politik Hukum Dalam Suatu Pembentukan Undang-Undang', *Jurnal Kepastian Hukum Dan Keadilan*, 1.1 (2019), p. 43, doi:10.32502/khdk.v1i1.2442.

⁶ Iwansyah, 'Dampak Ekonomi Penambangan Emas Tanpa Izin Masyarakat Desa Teluk Pandak

Kecamatan Tanah Sepenggal Kabupaten Bungo', *DEMOS: Journal of Demography, Ethnography and Social Transformation*, 2.2 (2022), pp. 97–106, doi:10.30631/demos.v2i2.1277.

⁷ Nur Aziza, *Metode Penelitian Metode Penelitian, Metode Penelitian Kualitatif*, 2017, I.

enforcement effectiveness; and the analytical approach, to critically assess the consistency between legal norms and their intended objectives.

Data collection is conducted through library research, by systematically reviewing primary legal materials such as the 1945 Constitution of the Republic of Indonesia, laws and regulations on mineral and coal mining, environmental protection, and criminal law, as well as secondary legal materials including textbooks, academic journals, legal commentaries, and relevant research reports. These materials are collected, classified, and organized according to their relevance to the research issues.

The data analysis technique used is qualitative normative analysis, carried out through interpretation and legal reasoning. The analysis involves identifying legal norms, examining their substance and structure, assessing their implementation challenges, and evaluating their effectiveness in practice. The results of the analysis are presented descriptively and analytically, with the aim of formulating legal arguments and recommendations to strengthen criminal law enforcement against illegal mining.

III. RESULTS AND DISCUSSION

Law enforcement in the field of illegal mining faces various challenges related to

various factors, both originating from within the law enforcement officers, existing facilities and infrastructure, laws and regulations, and the social culture of the community.⁸

The enforcement of criminal law against illegal mining cannot be separated from the functioning of the legal system as a whole. Referring to Lawrence M. Friedman's theory of the legal system, the effectiveness of law enforcement is determined by three main elements, namely legal structure, legal substance, and legal culture. These three elements are interrelated and form a unity that determines the success or failure of law enforcement. In the context of combating illegal mining in the jurisdiction of the South Sumatra Regional Police, obstacles to law enforcement can be analyzed systematically based on these three elements, which are reinforced by law enforcement facilities and infrastructure

1) Law Enforcement Officers

Law enforcement officers play a central role in the law enforcement process, but there is often a role conflict that hinders their effectiveness. One of the main obstacles in law enforcement is the presence of officers who are directly involved in illegal practices themselves, either as owners of mining equipment or as parties who provide protection against illegal activities.⁹

⁸ Ihwan Sutiawan, Sigid Suseno, and Maret Priyanta, 'Proses Penyidikan Terpadu Tindak Pidana Di Bidang Lingkungan Hidup', *Wawasan Yuridika*, 6.1 (2022), pp. 1–21, doi:10.25072/jwy.v6i1.537.

⁹ M Ellif Athallah and others, 'Analisis Penegakan Hukum Terhadap Pelanggaran Melawan Arus Bagi Pengendara Roda Dua Di Kota Bandar Lampung', *JERUMI: Journal of Education Religion*

The involvement of officers in these crimes further worsens the image of the law and reduces public trust in law enforcement officers. Ineffective law enforcement is often caused by a lack of understanding, weak integrity, and low control capacity of law enforcement officers.¹⁰

This situation reflects a deficit in institutional integrity, which has a direct impact on low public confidence in law enforcement. In addition, the limited technical competence of officials in understanding the characteristics of mining crimes and environmental crimes means that law enforcement tends to be administrative in nature and does not touch the main perpetrators. As a result, criminal law loses its optimal preventive and repressive functions.

Therefore, institutional reform is urgently needed, whether through capacity building for officials, strengthening internal oversight mechanisms, or imposing strict sanctions on officials involved in illegal practices. Without reforming the law enforcement structure, policies to eradicate illegal mining will continue to stagnate.¹¹

2) Facilities and infrastructure

Humanities and Multidisciplinary, 2.2 (2024), pp. 1313–26.

¹⁰ Gazali, ‘Analisis Implementasi Kebijakan Program Kampung Keluarga Berencana Kecamatan Pattalassang Kabupaten Gowa’, *Jurnal Faksi: Ilmu Sosial Dan Ilmu Politik*, 9.1 (2023), pp. 30–47.

¹¹ Agum Marenra and others, ‘Penegakan Hukum Oleh Penyidik Kepolisian Terhadap Pelaku Tindak Pidana Pembunuhan Berencana (Studi Putusan Nomor 174/Pid.B/2021/PN Plg)’, *JURNAL RECTUM*:

The availability of facilities and infrastructure is a key factor in supporting the effectiveness of law enforcement. In the context of illegal mining in South Sumatra, the limited number of investigators, minimal operational budgets, and lack of supporting equipment are significant obstacles. Illegal mining areas, which are generally located in remote areas, rivers, and forest areas, require special facilities such as rubber boats, off-road vehicles, and monitoring equipment.¹²

For example, the South Sumatra Regional Police only have a limited number of investigators to handle the many illegal mining cases that have occurred in recent years. In addition, the equipment needed, such as rubber boats for enforcement at mining locations that are difficult to access, is also very limited. Without adequate facilities and infrastructure, law enforcement will not be able to achieve its goals.¹³

These limitations have resulted in slow investigation and inquiry processes, as well as low intensity of enforcement in the field. Sporadic and reactive law enforcement is insufficient to curb organized illegal mining practices. Therefore, strengthening facilities and infrastructure must be viewed as a state

Tinjauan Yuridis Penanganan Tindak Pidana, 5.1 (2023), p. 1305, doi:10.46930/jurnalrectum.v5i1.3036.

¹² Sarita Dana Satwika and Anak Agung Ngurah Wirasila, ‘Penegakan Hukum Terhadap Penambangan Rakyat Liar’, *Kertha Wicara: Journal Ilmu Hukum*, 9.12 (2020), pp. 1–11.

¹³ Tim Tenaga Ahli DPRD Kota Salatiga, *Rancangan Peraturan Daerah Kota Salatiga Tentang Penyerahan Prasarana, Sarana Dan Utilitas Perumahan*, 2021.

investment in ensuring the rule of law and protecting natural resources.

3) Legal Substance and Regulations

From a legal perspective, Indonesia actually already has a fairly comprehensive regulatory framework, such as the Mineral and Coal Law and the Environmental Protection and Management Law. However, in terms of law enforcement, these regulations are not yet fully operational and effective.

Theoretically, illegal mining can be subject to legal sanctions in accordance with existing regulations. However, in practice, the existing regulations are often not clear enough, or the procedures applied are too complicated, so that the resolution of cases is hampered. Existing laws have not fully provided strong support for law enforcement officers to take firm action against perpetrators of illegal mining. For example, in several cases, officers have not included allegations of environmental crimes in the indictment of mining cases. Thus, stricter regulatory updates and more consistent supervision are needed to improve law enforcement.¹⁴

This situation highlights the need for substantial regulatory improvements and policy harmonization across sectors, so that mining criminal law can be enforced strictly

and consistently, thereby serving as a deterrent.

4) Social Culture of Society

The social culture of the community in illegal mining areas also influences the effectiveness of law enforcement. Many people are involved in illegal mining activities due to economic factors and limited legitimate employment opportunities. Illegal mining activities have even become part of the local culture as a livelihood.¹⁵

In addition, the community is also often less aware of the legal and environmental impacts of illegal mining activities. Lack of knowledge about mining permits and regulations and economic dependence cause this practice to continue. In this case, public legal awareness needs to be increased through legal education and a more humanistic approach.¹⁶

The state needs to develop more humanistic policies by raising legal awareness, empowering communities economically, and providing sustainable alternative livelihoods. In this way, law enforcement can go hand in hand with social justice and environmental protection

IV. CONCLUSION

¹⁴ Angkasa Angkasa, Rena Yulia, and Ogiandhafiz Juanda, 'Urgensi Victim Precipitation Dipertimbangkan Oleh Hakim Dalam Penjatuhan Putusan Pemidanaan', *Jurnal Wawasan Yuridika*, 5.1 (2021), p. 1, doi:10.25072/jwy.v5i1.431.

¹⁵ Yusuf Daeng and others, 'Keterbatasan Aparat Penegak Hukum Sebagai Hambatan Dalam Penegakan Hukum Di Indonesia', *MOTEKAR: Jurnal Multidisiplin Teknologi Dan Arsitektur*, 2.2 (2024), pp. 671–76.

¹⁶ Sudjana, 'Penerapan Sistem Hukum Menurut Lawrence W Friedman Terhadap Efektivitas Perlindungan Desain Tata Letak Sirkuit Terpadu Berdasarkan Undang-Undang Nomor 32 Tahun 2000', *Al Amwal (Hukum Ekonomi Syariah)*, 2.1 (2019), pp. 78–94

<<http://literaturbook.blogspot.co.id/2014/12/pengertian-efektivitas-dan-landasan.>>

This study demonstrates that the ineffectiveness of criminal law enforcement against illegal mining in the jurisdiction of the South Sumatra Regional Police is the result of interconnected structural, institutional, and socio-legal constraints. The findings reveal that limitations in the integrity and capacity of law enforcement officers, inadequate facilities and logistical support, fragmented regulatory implementation, and low levels of legal awareness within economically dependent communities collectively weaken the deterrent function of criminal law. Rather than operating as isolated obstacles, these factors form a systemic pattern that undermines the effectiveness of the criminal justice response to illegal mining. Consequently, criminal law enforcement remains largely reactive and fails to address the root causes of persistent illegal mining practices. This study argues that effective enforcement requires an integrated and multi-dimensional approach, combining institutional reform, capacity building, regulatory harmonization, and community-based legal empowerment. By framing illegal mining enforcement as a systemic governance issue rather than a purely legal violation, this research contributes to the broader discourse on resource governance and environmental law enforcement in developing legal systems. Strengthening these interconnected dimensions is essential to ensuring that criminal law functions as an effective instrument for environmental protection, legal certainty, and sustainable development..

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