

## Legal Analysis of Law Enforcement of Mining Crimes Based on Legal Certainty

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**Abstract.** *This study aims to determine and analyze the implementation of law enforcement against illegal mining crimes in law enforcement against mining crimes that have legal certainty and obstacles and solutions in law enforcement against mining crimes that have legal certainty. The method of sociological juridical approach, the research specification is descriptive analytical, the data used are primary data and secondary data. The data collection method is field study and literature study. The data analysis method used is qualitative. The theory used in this study is the theory of legal law enforcement and the theory of legal certainty. Based on the results of the study, it can be concluded that law enforcement against mining crimes in the West Kalimantan Regional Police has legal certainty where its implementation is based on applicable laws and regulations, namely the Minerba Law, the Criminal Procedure Code and the Police Chief Regulation Number 6 of 2019 concerning Criminal Investigation. The implementation of law enforcement is carried out through investigations and inquiries into events suspected of having occurred mining crimes. Obstacles in law enforcement against mining crimes include internal obstacles and external obstacles. Through appropriate solution actions, these obstacles can be overcome, so that the law enforcement process can be carried out in accordance with the provisions of applicable laws and regulations.*

**Keywords:** Law Enforcement; Mining Crimes.

### 1. Introduction

Indonesia has wealth in the form of natural resources, one of which is mining, which includes gold, silver, copper, oil and natural gas, coal, and others.<sup>1</sup>The wealth of natural resources is controlled by the state, which is stated in Article 33 paragraph (3) of the 1945

Constitution of the Republic of Indonesia.<sup>2</sup>State policy implementers are obliged to manage and utilize natural resources for the prosperity of the people.<sup>3</sup>

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<sup>1</sup>Salim HS, 2012, Mining Law in Indonesia, Rajawali Pers, Jakarta, p. 1.

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Natural resource management in Indonesia is a vital part of the government's economic development program. Therefore, the implementation of natural resource management regulations is a manifestation of government policy implementation.<sup>4</sup> Good management of natural resources will contribute to the country's economic development.<sup>5</sup>

Mining resources within Indonesia constitute a non-renewable natural resource, a gift from God Almighty. The management of these resources, including minerals and coal, is controlled by the state to increase added value to the national economy, aiming to achieve prosperity and welfare for the people in a just manner.

The utilization of natural resources is carried out through mining activities, the management of which is regulated by mining law. This is intended to ensure that mining operations are orderly, fair, and sustainable, so that the results can be used to stimulate national economic development. Mining law is a legal principle that regulates the state's authority in the management of minerals (mines) and regulates the relationship between the state and individuals and/or legal entities in the management and utilization of minerals.<sup>6</sup>

Mining law in Indonesia is regulated in Law Number 4 of 2009 concerning Mineral and Coal Mining as last amended by Law Number 2 of 2025 concerning the Fourth Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining (Minerba Law).

The considerations of the Mineral and Coal Mining Law state that to be competitive at the national, regional, and international levels, downstream mining activities, as one of the drivers of national economic growth, require strengthening and ensuring the supply of raw materials in an effective, efficient, sustainable, and environmentally friendly manner. Downstreaming is the first step in Indonesia's transformation from a developing country to an advanced industrial nation. Downstreaming of mineral and coal mining is a process carried out to add value to raw materials mined from the earth's crust, thereby providing greater economic benefits and creating a sustainable and independent industrial ecosystem.

One of the provisions of the Mineral and Coal Mining Law is licensing for mining activities. According to Article 1, number 1 of the Mineral and Coal Mining Law, mining is defined as any or all stages of activities within the framework of managing and exploiting minerals or coal, including general investigations, exploration, feasibility studies, construction, mining, processing and/or refining, development and/or utilization, transportation and sales, and post-mining activities.

Mining activities require a mining business permit. A mining business permit is a constitutional legal instrument that law enforcement can use to take legal action in carrying out their duties and authorities. Generally, permits fall under constitutional law, which

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<sup>2</sup>Keris Aji Wibisono and Umar Ma'ruf, The Law Enforcement Against The Crime Of Illegal Mining, Law Development Journal, Volume 3 Issue 2, June 2021, p. 424.

<sup>3</sup>Ida Ayu Eling Purnama Sari, "Regional Government Authority in Managing Mining Business Permits in North Minahasa Regency", Lex Administratum, Vol. III No. 4, June 2015.

<sup>4</sup>Abdus Syukur Felani and Sri Kusriyah, Police Efforts in Handling the Criminal Acts of Unauthorized Mining at Solok City Police, Ratio Legis Journal, Volume 4 No. 2, June 2025, p. 869.

<sup>5</sup>Gatot Supramano, 2012, Mineral and Coal Mining Law in Indonesia, Rineka Cipta, Jakarta, p. 1

<sup>6</sup>Salim HS, 2012, Mining Law in Indonesia, Rajawali Pers, Jakarta, p. 8

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specifically regulates them based on requirements and procedures established by statutory regulations.<sup>7</sup>

The mining regulations in the Mineral and Coal Mining Law do not necessarily eliminate legal violations in mining activities. Many mining activities still occur without permits, misuse of mining permits, or use of permits inappropriately. Illegal mining is any activity carried out by individuals or communities without permission from authorized officials.<sup>8</sup>

According to data from the Ministry of Energy and Mineral Resources, by 2024 there will be at least 2,700 illegal mining operations across Indonesia.<sup>9</sup> Of this number, there are around 96 illegal coal mining locations, and around 2,645 illegal mineral mining locations.<sup>10</sup> Mining activities without permits also trigger horizontal conflicts within the community, considering that mining without permits ignores obligations, both to the state and the surrounding community.

Mining activities are prevalent in areas rich in mineral resources, including West Kalimantan. West Kalimantan Province is one of the largest bauxite mining areas in Indonesia. In June 2023, President Joko Widodo announced at a World Trade Organization (WTO) meeting that a ban on raw bauxite exports would be implemented. This presents a golden opportunity for the local government to establish bauxite washing facilities and further process the bauxite into aluminum.<sup>11</sup>

In addition to bauxite, West Kalimantan also boasts reserves of diamonds, aluminum, nickel, iron ore, and even gold. The region holds 62.1% of the total potential coal reserves and resources, earning it the title of largest coal producer in Indonesia. Data from the Ministry of Energy and Mineral Resources (ESDM) indicates that Kalimantan's coal resources reach 88.31 billion tonnes. In fact, reserves are nearly 25.84 billion tonnes.<sup>12</sup>

The mining potential in West Kalimantan, while having positive impacts, also has negative ones, including the emergence of illegal mining and the misuse of mining permits. Law enforcement efforts against illegal mining have been implemented by the West Kalimantan Regional Police, but mining violations remain rampant. This study aims to examine and analyze law enforcement against mining crimes based on legal certainty.

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<sup>7</sup>Khoirulika Nur Harinda, Amin Purnawan, and Aryani Witasari, The Law Enforcement of Environmental Law against Illegal Mining, *Law Development Journal*, Volume 3 Issue 4, December 2021, p. 694.

<sup>8</sup>Adi Candra, Formulation of Law Enforcement Against Illegal Mining Crimes, *Ratio Legis Journal*, Vol. 2 No. 2, June 2024, p. 102.

<sup>9</sup>Perhapi, Illegal Mining is Rampant in Indonesia, Turns Out This is the Root Cause, <https://perhapi.or.id>, accessed October 5, 2025.

<sup>10</sup>Raden Ariyo Wicaksono, There Are More Than 2,700 Illegal Mines Spread Across Indonesia, <https://betahita.id/news>, accessed October 5, 2025.

<sup>11</sup>West Ridho Ikhsanul Febri, Sisi Amalia, Contribution of Mining Sector Revenue to West Kalimantan Province, *Proceedings of the National Seminar of the Islamic Economics Study Program*, Vol. 1, 2023, p. 517

<sup>12</sup>Yurika, CKB Logistic Boosts Mining Sector Business in West Kalimantan, <https://www.dunia-energi.com>, accessed October 5, 2025.

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## 2. Research Methods

The approach used in this research is sociological juridical, with descriptive analytical research specifications. The data used are primary and secondary data. Data collection methods include field studies and literature reviews, while data analysis uses qualitative analysis.

## 3. Results and Discussion

### 3.1. Law Enforcement Against Mining Crimes in the West Kalimantan Regional Police with Legal Certainty

Mining regulations in Indonesia are a crucial aspect of environmental sustainability. In recent years, mining activities have grown significantly in Indonesia, but so have the associated criminal activities.<sup>13</sup> It's not uncommon to find mining companies that lack official permits or operate illegally. In fact, mining activities in Indonesia, whether carried out by companies or individuals, must have official permits. Violating these regulations can have environmental impacts. These impacts can even potentially lead to losses for the state.<sup>14</sup>

Law enforcement of mining crimes at the West Kalimantan Regional Police is carried out in two stages, namely investigation and inquiry.

#### 1. Investigation

In this case, the investigation is conducted by gathering information from the public and relevant agencies. Patrols, observations, and field inspections are then conducted at the mining site. Based on the results of the field inspections, an initial analysis is conducted to determine whether there are elements of a mining crime. If sufficient grounds are found to indicate a crime has occurred, the investigation is escalated to an investigation.<sup>15</sup>

#### 2. Investigation

An investigation is a series of actions by investigators to seek and collect evidence and identify suspects (Article 1 paragraph 2 of the Criminal Procedure Code). After entering the investigation stage, investigators take the following steps:

- a. Preparation and issuance of Investigation Orders
- b. Summoning and examining witnesses and conducting witness statements to confirm the existence of a criminal act.
- c. Determination of suspect
- d. Coordination with the ESDM Service for expert testimony

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<sup>13</sup>Meta Septari and Sukmareni, Op.Cit., p. 25.

<sup>14</sup>Criminal Sanctions in Mining Law in Indonesia, <https://siplawfirm.id>, accessed November 21, 2025.

<sup>15</sup>Results of an interview with AKP Deddy Aryady as Investigator of Sub-Directorate 4 of the Criminal Investigation Directorate of the West Kalimantan Regional Police, November 21, 2025

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- e. Confiscation of heavy equipment, mining equipment and other evidence
- f. Preparation of investigative administration (BAP, confiscation report, etc.).
- g. Delivery of case files to the prosecutor's office Phase I (file delivery)
- h. Handover of suspects and evidence to the prosecutor (Stage II)

The handover of the suspect and evidence to the prosecutor (Stage II) is a follow-up process after the case file is declared complete by the Public Prosecutor through a P-21 letter. At this stage, the investigator hands over responsibility for the suspect and all evidence to the prosecutor's office for the purposes of prosecution in court. This process includes the physical handover of the suspect, evidence in the form of documents, equipment, or other objects related to the crime, as well as supporting administration such as minutes of handover. Stage II marks the transfer of authority from the investigator to the prosecutor, so that the suspect then becomes the responsibility of the prosecutor's office until the trial begins. The implementation of the investigation into mining crimes at the Kalimantan Regional Police has been in accordance with the provisions of the Criminal Procedure Code, where all series of investigators' actions are carried out based on the principles of legality, professionalism, and criminal procedural law procedures. The investigation began with a report on the findings of the Sub-Directorate Team 4 of the Special Criminal Investigation Directorate of the West Kalimantan Regional Police who conducted an inspection of the suspect's mining location which was then analyzed for elements of suspected mining crimes, so that it could be escalated to the investigation stage. The report was then followed up by issuing an Investigation Order (Sprindik) as the legal basis for investigators to carry out a series of actions. This is in accordance with the provisions of Article 13 paragraph (1) of the Regulation of the Head of the Republic of Indonesia National Police (Perkap) Number 6 of 2019 concerning Criminal Investigations, which states that investigations are carried out on the basis of Police Reports; and Investigation Orders.

Investigators made efforts in the form of examining witnesses, requesting expert statements, collecting evidence, and confiscating heavy equipment, mining equipment, and mining products in accordance with the provisions of Articles 38 to 46 of the Criminal Procedure Code. Each confiscation action was carried out based on permission or notification to the head of the district court as required by the Criminal Procedure Code. This is also in line with the provisions of Article 16 of the Regulation of the Chief of the Republic of Indonesia National Police Number 6 of 2019 concerning Criminal Investigations which states that coercive measures include: summons; arrest; detention; search; confiscation; and examination of documents.

Investigators in the aforementioned case also determined the suspect based on valid evidence as stipulated in Article 184 of the Criminal Procedure Code, namely witness statements, expert testimony, letters, clues, and the suspect's statement. The determination of the suspect was carried out through a case conference. This is in line with the provisions of Article 25 of Regulation of the Chief of Police Number 6 of 2019 concerning Criminal Investigation, which states that the determination of a suspect is based on at least



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2 (two) pieces of evidence supported by physical evidence, carried out through a case conference mechanism unless caught red-handed.

Investigations during the investigation stage involve suspects, witnesses, and experts, if necessary, in connection with the alleged crime. These are conducted by first summoning suspects, witnesses, and experts through official letters, taking into account the examination deadline. However, suspects who have already been detained do not require a summons.<sup>16</sup>In practice, not all witness examinations are conducted by summoning them by letter, because when someone is caught red-handed, they can immediately bring the witness or defendant in for examination.

All investigations are documented in an orderly administrative investigation report, starting with the witness's statement and the suspect's statement, and continuing with the preparation of the investigation summary. This aligns with Article 27 of the Indonesian National Police Regulation Number 2019 concerning Criminal Investigation, which states that after the investigation is completed, a summary is prepared as a summary and conclusion of the criminal investigation results. Once the summary is completed, the case file is compiled, including the completeness of the investigation's administrative requirements.

After the file is complete, the investigator submits the case file to the prosecutor (Stage I) for examination by the prosecutor. If it is declared complete (P-21), the investigator continues with the submission of the suspect and evidence to the prosecutor (Stage II). This is in line with the provisions of Article 8 of the Criminal Procedure Code, the investigator submits the case file to the Public Prosecutor. If within 14 days the Public Prosecutor does not return the results of the investigation or before the deadline has expired there has been notification of this from the Public Prosecutor to the investigator, then the investigation is considered to have been completed (Article 110 paragraph (4) of the Criminal Procedure Code). This is also in line with the provisions of Article 28 of Regulation Number 6 of 2019 concerning Criminal Investigation which states that the submission of the case file to the Public Prosecutor is carried out after the filing in the investigation process is completed. If the case file is returned by the Public Prosecutor to the Investigator, the case file is returned to the Public Prosecutor after fulfilling the Public Prosecutor's instructions regarding deficiencies in the content/material of the case file.

The entire process shows that the investigation of the mining case has been carried out in accordance with the Criminal Procedure Code procedures, thus guaranteeing the legitimacy of the investigator's actions, protection of the suspect's rights, and legal certainty in the law enforcement process.

Law enforcement against mining crimes by the West Kalimantan Regional Police has been essentially effective in addressing mining crimes within the West Kalimantan Regional Police, however, it is less effective in terms of prevention and long-term outcomes. Judging from the repressive nature of law enforcement, law enforcement against mining crimes can be considered effective. In this regard, through routine enforcement operations, mining

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<sup>16</sup>C. Djisman Samosir, 2013, *A Handful of Criminal Procedure Law*, Bandung: Nuansa Aulia, p. 111.

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activities have been suppressed in several locations. Numerous heavy equipment and dump trucks have been confiscated, indicating concrete action is being taken.<sup>17</sup>

On the other hand, such law enforcement is less effective in terms of prevention and long-term outcomes. Judging by the persistence of illegal mining year after year, law enforcement is not yet fully effective. This is because perpetrators return to operations after operations are completed, there is no real deterrent effect on investors, and the lack of economic alternatives forces communities to return to mining.<sup>18</sup> Thus, it can be said that overall, law enforcement has been running, but has not resolved the root of the problem, so the impact is still limited.

Mining crimes, the majority of which are illegal, present a dilemma between economic necessity and legal compliance. On the one hand, mining activities support the livelihoods of residents, especially in areas with limited economic access. However, on the other hand, these activities can damage the environment (river and forest damage, mercury pollution), give rise to land and social conflicts, eliminate potential state revenues, and endanger worker safety. Therefore, this problem cannot be resolved solely through legal approaches. It requires economic empowerment, legalization of community mining (WPR), environmental monitoring, and training in safe and environmentally friendly mining. In this regard, small communities must be involved as part of the solution, not merely as objects of action.<sup>19</sup>

### **3.2. Obstacles and Solutions in Enforcing Mining Crimes in the West Kalimantan Regional Police**

Mining law enforcement is a crucial effort to ensure that natural resource management complies with statutory provisions. However, in practice, law enforcement against mining crimes still faces various complex obstacles, ranging from geographic limitations, limited human resources, to social and institutional factors. These various obstacles not only hamper the effectiveness of supervision and enforcement but also impact the authorities' ability to sustainably suppress illegal mining activities.

Obstacles in enforcing mining crimes in the West Kalimantan Regional Police area are as follows:<sup>20</sup>

#### **1. Geographical factors and accessibility**

Mining areas are often located in remote, hilly areas, or along rivers that are difficult to access. These conditions make monitoring and enforcement operations costly, time-consuming, and resource-intensive.

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<sup>17</sup>Results of an interview with Police Commissioner Michael Terry Hendrata, Head of the Sub-Directorate of Special Crimes, Directorate of Criminal Investigation, West Kalimantan Regional Police, November 15, 2025

<sup>18</sup>Results of an interview with Police Commissioner Michael Terry Hendrata, Head of the Sub-Directorate of Special Crimes, Directorate of Criminal Investigation, West Kalimantan Regional Police, November 15, 2025

<sup>19</sup>Results of an interview with AKP Deddy Aryady as Investigator of Sub-Directorate 4 of the Criminal Investigation Directorate of the West Kalimantan Regional Police, November 21, 2025

<sup>20</sup>Results of an interview with AKP Deddy Aryadi, as Investigator of Sub-Directorate IV of the Criminal Investigation Directorate of the West Kalimantan Regional Police, November 21, 2025.

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The solution to overcome these obstacles is to utilize modern technology such as drones. The West Kalimantan Regional Police already have drones to monitor hard-to-reach areas, although their number is still insufficient.

## 2. Limited personnel and infrastructure

The number of investigators and technical equipment (off-road vehicles, boats, documentation tools, and security) is often disproportionate to the area and number of illegal mining sites. The solution to overcome this obstacle is to strengthen facilities, infrastructure, and personnel, namely by requesting additional specialized investigators and increasing the technical capacity of existing investigators. Regarding facilities and infrastructure, a request for procurement of field equipment for mobilization to mining sites is required. Meanwhile, for areas that cross waterways, maritime fleets must be relied upon.

## 3. Dynamic patterns of perpetrator operations

Illegal miners are often mobile, using simple but easily transported equipment. Therefore, by the time authorities arrive, the activity has often been halted or the perpetrators have fled. The solution to overcome these obstacles is to implement joint operations and coordinate across sectors. This involves local governments, the Ministry of Energy and Mineral Resources (ESDM), the Forestry Police, and related agencies in integrated operations to limit the perpetrators' freedom of movement.

## 4. Complex network involvement

Illegal mining activities often involve networks of intermediaries, financiers, and even certain individuals, making the process of proving the truth more difficult. Enforcement efforts on the ground don't always reach the intellectual actors behind them.

The solution to overcome these obstacles is to optimize local informant networks, including indigenous communities, community leaders, and village officials. Furthermore, mapping the perpetrators' movement patterns, including operating hours, access routes, and equipment hiding locations, is also carried out. To facilitate tracking, surveillance technology such as drones can be used to quickly monitor difficult-to-access areas. Furthermore, law enforcement should not only focus on field workers but also target financial networks and financiers. Transaction analysis, tracking of cash flows, and collaboration with the Financial Transaction Reports and Analysis Center (PPATK) can break the criminal chain.

## 5. Socio-economic factors of society

Illegal mining is a source of livelihood for local communities. This economic dependence makes communities less cooperative, and even protects these activities. Illegal mining in several areas of West Kalimantan has become a primary source of income for some local communities. This high economic dependence on this activity has led communities to view illegal mining as a quick way to earn income, especially in areas with limited formal employment opportunities.



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The solution to overcome these obstacles is a program to legalize community mining businesses (WPR), which can reduce the community's dependence on illegal mining. Furthermore, to raise public legal awareness, regular outreach is conducted to discourage community members from engaging in criminal mining activities. This can optimize the role of Bhabinkamtibmas (Community Police Officers) in their respective work areas. Firm but proportionate law enforcement can increase public awareness and compliance.

#### 6. Weak coordination between agencies

Mining law enforcement involves various agencies, including the Energy and Mineral Resources Agency (ESDM), the Forestry Agency (Kemenhub), regional governments, and the Financial Transaction Reports and Analysis Center (PPATK). Inadequate coordination can hinder integrated action. Mining law enforcement is a multi-agency process, involving many agencies, including the ESDM Agency as the technical agency, the Forestry Agency for forest areas, regional governments with jurisdiction, and the PPATK for tracking fund flows. The solution to overcome these obstacles is coordination with relevant parties, fostering effective communication in enforcing mining crimes.

#### 4. Conclusion

Law enforcement against mining crimes in the West Kalimantan Regional Police has legal certainty, where its implementation is based on applicable laws and regulations, namely the Mineral and Coal Mining Law, the Criminal Procedure Code, and the Indonesian National Police Regulation Number 6 of 2019 concerning Criminal Investigations. Law enforcement is carried out through investigations and inquiries into incidents suspected of having occurred in the mining sector. Obstacles in law enforcement against mining crimes include internal and external obstacles. Through appropriate solutions, these obstacles can be overcome, so that the law enforcement process can be carried out in accordance with the provisions of applicable laws and regulations.

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