

Legal Accountability and Policy Solutions for Illegal Oil Drilling Criminal Acts in Aceh

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Abstract. Aceh's special status in managing oil and gas resources is regulated in Article 160 Paragraph 1 of Law Number 11 of 2006. The realization of Aceh's authority in managing oil and gas resources is achieved through the establishment of the Oil and Gas Management Agency, the Aceh Oil and Gas Management Agency (BPMA), a government institution formed to jointly manage and control upstream business activities in carrying out activities in the oil and gas sector. Although there is already an agency that oversees oil and gas management, its implementation is still ineffective, many people drill for oil illegally and cause fires that can claim lives. The purpose of this study is to determine the practice of illegal drilling in East Aceh Regency and its impact on the environment, society and efforts to manage sustainable natural resources. In this study, the research method used is the normative legal research method, namely legal research that uses empirical facts obtained through analysis of a problem. Data will be collected from various sources, including literature, legal documents (laws, regulations, policies, etc.) of case studies. In this study, the solution to the problem that can be provided is that BPMA together with PPSPDM MIGAS Aceh can also overcome drilling problems that are caused by the financial conditions and difficulties of the Aceh people who still depend on oil and gas natural resources as a livelihood. By educating and providing job training for 6 months, people who are declared to have graduated from the job training program will receive worker certification and will receive wages legally and with permits, so that it is hoped that problems related to illegal drilling and problems of social conditions in the community can be resolved properly through this activity.

Keywords: Drilling; Gas; Illegal; Oil.

I. Introduction

Issues related to oil drilling pose a major challenge to achieving sustainable and equitable natural resource management, as stipulated in Article 33 paragraph (3) of the 1945 Constitution, which stipulates that natural resources are controlled by the state and used for the good and prosperity of the people. Therefore, the oil and gas drilling process must consider environmental preservation and the sustainable availability of natural resources for future generations.

Aceh's special status in managing oil and gas resources is regulated in Article 160 paragraph (1) of Law 11/2006, which states that "the Government and the Aceh Government shall jointly manage oil and gas natural resources located on land and at sea within Aceh's jurisdiction." Oil and gas are energy sources derived from dead microorganisms, plants, and animals. Therefore, oil and gas are classified as non-renewable energy sources because petroleum is formed from the remains of plants and animals buried over millions of years.

Illegal oil and gas drilling in East Aceh certainly has serious impacts on the environment and sustainable natural resource management (Afni, 2020; Alvina, 2024). However, for some communities, this activity is a primary source of income, with the proceeds of illegal oil and gas drilling typically sold to meet their living expenses. However, oil and gas drilling without proper operational standards, including environmental and safety considerations, carries numerous risks, such as oil well fires, which can endanger communities living near illegal drilling areas. In this regard, illegal drilling violates not only Oil and Gas Law Number 22 of 2001, but also the principles of sustainable development, point 7 of the Sustainable Development Goals (SDGs), and also contradicts the principle of well-being.

According to Article 160 Paragraph (2) of Law 11/2006, the central government and the Aceh Regional Government can appoint or establish a jointly established body. The establishment of an agency that will manage oil and gas is regulated in Article 1 number 22 of Government Regulation Number 23 of 2015 concerning Joint Management of Natural Resources, which explains that the Aceh Oil and Gas Management Agency (BPMA) is a government agency formed to jointly manage and control upstream oil and gas business activities onshore and offshore within the jurisdiction of Aceh (0-12 nautical miles).

The BPMA is tasked with implementing, managing, and monitoring upstream business cooperation agreements to ensure that the development of state-owned oil and gas resources on land and offshore in the Aceh Region generates profits and revenues and is utilized for the greatest prosperity of the people. Although an agency oversees oil and gas management, its implementation remains ineffective. Many communities engage in illegal oil drilling, resulting in fires that can result in loss of life. This is evident in the incident in Pasir Putih

Village, Ranto Peureulak District, East Aceh Regency, where a traditional well exploded on April 25, 2018, claiming 21 lives.

Fires in traditional oil wells caused by illegal drilling not only claim lives but also pollute the environment, as oil mining disregards environmental impacts, which can lead to soil erosion and landslides, endangering communities (Alfaizar, 2023). This action is inconsistent with the Indonesian philosophy enshrined in Article 33, paragraph 3 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

This article explains that Indonesia's natural resources must be utilized for the benefit of the people so that Indonesia can achieve the Sustainable Development Goals (SDGs), or point 7 of the Sustainable Development Goal, which guarantees the right of all people to access energy that is affordable and enjoyable for all segments of society. (Daufir, 2025) The many incidents of traditional well explosions in East Aceh district should have been a reminder for the government to immediately take action, the prohibition of illegal drilling is regulated in Article 52 of Law Number 6 of 2023 concerning Job Creation (Law 6/2023) which states that "Any person who carries out Exploration and/or Exploitation without having a Business Permit or Cooperation Contract shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of IDR 60,000,000,000.00 (sixty billion rupiah)". Although there are regulations prohibiting it, their enforcement has not been carried out effectively due to the lack of understanding and legal awareness of the local community about how to obtain oil drilling permits and illegal oil drilling has become a livelihood for the community.

2. Research Methods

This research employs a normative legal research method, namely legal research that utilizes positive law as its object. Therefore, this research focuses on the analysis of legal regulations, as well as legal doctrines and concepts, to find answers to the research questions. The data used in this legal research is secondary data, namely statutory regulations. In addition, secondary data is obtained from books discussing legal principles and principles, academic research results such as journals and theses, and the opinions of legal experts.

This research method aims to identify the legal regulations and accountability for illegal oil and gas drilling crimes and to develop strategic recommendations to strengthen legal accountability for perpetrators of illegal oil and gas drilling crimes. By using this normative legal research, the results are expected to provide in-depth and relevant insights to encourage more effective policy measures and legal practices in protecting the environment and addressing the challenges of climate change in Indonesia.

3. Results and Discussion

3.1 Regulations Regarding Illegal Drilling Crimes Against the Environment and Sustainable Natural Resources

Unfortunately, illegal oil and gas drilling practices are still rampant in the field, especially in East Aceh and the surrounding areas. Many residents rely on this traditional drilling as their primary source of livelihood without official permits, even though this activity violates Law Number 22 of 2001 concerning Oil and Gas and Law Number 6 of 2023 concerning Job Creation (Husna, 2023). Article 52 of the Job Creation Law stipulates that anyone conducting exploration or exploitation without a valid business permit or cooperation contract can be punished with a maximum of six years' imprisonment and a fine of up to sixty billion rupiah. This provision reflects the national legal commitment to regulating natural resource exploitation activities so as not to damage the environment and threaten public safety.

From an environmental perspective, illegal drilling often leads to tragedies. The oil well explosion in Pasir Putih Village, Ranto Peureulak District, for example, killed dozens of people and contaminated the surrounding land. These activities without operational standards result in oil leaks, fires, and land degradation, ultimately threatening the principles of sustainable development and Sustainable Development Goal (SDG) 7, namely access to clean and sustainable energy for all (Busevy & Humam, 2023). Therefore, legal regulations regarding illegal drilling crimes serve not only as a repressive means to punish perpetrators, but also as a preventative instrument to maintain ecological balance and ensure the sustainability of natural resources for future generations.

Within the framework of regional autonomy, Aceh is also striving to strengthen its legal framework through the Aceh Qanun (Regional Regulations). One important regulation currently being developed is the Draft Aceh Qanun on Oil and Gas Mining, which aims to regulate the management of oil and gas resources legally, sustainably, and in favor of local communities. This draft qanun was initiated by the Aceh Oil and Gas Management Agency (BPMA) in collaboration with the Aceh Government to create a system that allows communities to participate in oil and gas activities legally and safely. Through this qanun, the regional government seeks to regulate community drilling activities by providing space for regionally-owned enterprises (BUMD) or community cooperatives to act as official government partners. In this way, oil and gas exploration activities can be controlled, their results monitored, and their risks to the environment minimized.

The BPMA, established under Government Regulation Number 23 of 2015, plays a crucial role in the implementation and oversight of oil and gas management in Aceh. This institution is tasked with ensuring that all upstream oil and gas

activities comply with the principles of good governance and environmental protection. However, its effectiveness depends heavily on synergy with the regional government and the legal awareness of the local community. This is where the role of the qanun (Indonesian legal code) becomes vital: it bridges national law and local wisdom, ensuring that law enforcement does not merely punish but also fosters and empowers communities that have traditionally relied on traditional oil mining for their livelihoods.

The implementation of Law Number 22 of 2001 concerning Oil and Gas in Aceh has not been optimal (Hasan, 2012). Although Aceh has special authority in managing natural resources through Law Number 11 of 2006 concerning the Governance of Aceh (UUPA) and Aceh Qanun Number 10 of 2018 concerning the Management of Oil and Gas in Aceh, its implementation in the field still faces various obstacles. One of the main obstacles lies in the institutional aspects and coordination between the central government, the Aceh Government, and the Aceh Oil and Gas Management Agency (BPMA), which is the spearhead for monitoring and licensing oil and gas activities in the region. This lack of fully synchronized working relationships has slowed down the licensing process, supervision, and law enforcement against illegal oil and gas violations.

Furthermore, limited human resources and technology for monitoring oil and gas activities in Aceh also hamper the effective implementation of the law. The BPMA and related agencies often rely on technical support from the central government, resulting in incomplete oversight of illegal drilling, oil theft, and environmental violations (Dhikshita, 2021). This situation is exacerbated by the lack of transparency and accountability in reporting oil and gas exploration and production activities, which has the potential to lead to regional revenue leakage and harm local communities.

From a legal perspective, although regional regulations exist through qanun (Islamic law), law enforcement against perpetrators of illegal oil and gas drilling remains weak. Many cases do not reach the prosecution stage due to weak evidence, lack of coordination between law enforcement agencies, and the influence of economic and political interests on the prosecution process. As a result, the implementation of the Oil and Gas Law in Aceh has not been able to fully realize its primary objective: sovereign, equitable, and sustainable natural resource management for the welfare of the Acehnese people.

Ultimately, legal regulation of illegal oil and gas drilling crimes reflects Indonesia's efforts, particularly in Aceh, to maintain harmony between humans, the law, and nature. The state must be firm in enforcing the law to protect the environment and the safety of its citizens, but true justice also demands humane solutions, including providing legal education, legal business opportunities, and a fair and sustainable oil and gas management system. With synergy between the Oil and Gas Law, the Job Creation Law, the Aceh Governance Law, and the

Aceh Oil and Gas Qanun, it is hoped that natural resource management can truly become a means to achieve public prosperity without sacrificing the sustainability of the earth upon which we stand.

3.2 Legal Accountability for Perpetrators of Illegal Oil and Gas Drilling Crimes

The Oil and Gas Law clearly regulates this strictly. Article 52 of Law No. 22 of 2001 states that anyone conducting oil exploration or exploitation without an official Cooperation Contract can be punished with up to six years' imprisonment and a fine of IDR 60 billion. New regulations in the Job Creation Law (Law No. 11/2020) reaffirm that exploration without a permit or official contract also carries the same penalty, a maximum of six years' imprisonment and a fine of IDR 60 billion. If the illegal activity results in loss of life, additional articles in the Job Creation Law carry a maximum prison sentence of five years or a fine of IDR 50 billion (Faisal et al., 2023).

Furthermore, general criminal aspects of the Indonesian Criminal Code can also be applied. In practice, the Pasir Putih case is also referred to as the Indonesian Criminal Code: several suspects were charged with the article of complicity (Article 55 of the Indonesian Criminal Code) due to the involvement of multiple parties in this mining crime. If proven negligence resulting in death, Article 359 or 360 of the Indonesian Criminal Code concerning negligence resulting in casualties can be imposed on the perpetrators. Unlike the specific Oil and Gas Law, the Criminal Code applies generally to perpetrators who cause injury or death. Therefore, law enforcement officials often use a combination of the Oil and Gas Law and the Criminal Code to handle illegal well explosions, ensuring there are no legal loopholes for perpetrators.

The case of illegal oil mining in Aceh places us at a crossroads between law and humanity. The 1945 Constitution places natural resources in the hands of the state for the prosperity of the people, and Aceh's autonomy was designed to ensure Aceh can manage its own resources. However, in reality, ordinary citizens who participate in oil drilling without permits are the ones being prosecuted. Therefore, law enforcement is necessary to protect public safety and the environment, but the government must also foster justice that takes into account the conditions of remote villages (Permatasari, A., 2024). Legal education, alternative employment opportunities, and fair local regulations need to go hand in hand. Only then can Aceh's hope of managing its own natural resources be realized without sacrificing the lives and future of its people.

Illegal oil and gas drilling remains a primary source of income for the Acehnese people, especially in areas like Lant Peureulak District in East Aceh. Illegal oil extraction, which has intensified since 2011 and increased significantly since 2013, is illegal and poses significant safety and environmental risks. Many local residents traditionally use homemade equipment to drill oil wells, producing up

to 5 and sometimes 25 barrels of oil per day. Fundamentally, illegal oil drilling violates the provisions stipulated in Article 52 of Law Number 22 of 2001 concerning Oil and Gas, and therefore, enforcement of illegal oil drilling must be maintained.

Therefore, a community empowerment system is needed to prevent similar incidents from occurring, and to ensure that communities whose livelihoods still depend on illegal oil sales can be empowered. The presence of illegal oil wells in the area is not only a vital economic resource for the local community, but also a way of life. In fact, thousands of households in the Peureulak area depend on oil production as their primary source of income. However, this practice is also known to have negative impacts, such as the risk of explosions and fires at oil wells, as well as significant environmental impacts.

The Aceh government is attempting to address this issue by initiating the creation of the Qanun on Oil and Gas Mining in Aceh, a regional regulation aimed at legalizing illegal oil extraction and establishing an effective legal framework. Its implementation is still undergoing ratification and finalization. To date, the people of Aceh still face challenges in abandoning illegal mining practices and shifting to safer and more legal channels. Aceh Province is considered to have rich natural resource potential, beyond oil and gas. Specifically, Aceh has significant potential in agriculture, fisheries, and forestry. Aceh is known as a major producer of exportable raw materials such as rice, corn, and coffee.

Many Acehnese earn a living from these activities, especially in areas where illegal drilling is prevalent. The Aceh Oil and Gas Management Agency (BPMA) faces a dilemma between shutting down illegal oil wells and creating new social problems such as unemployment and economic instability. This is because many Acehnese still rely primarily on the oil and gas sector for their livelihoods, where a barrel can be sold for Rp 400,000, providing income for families living near oil drilling areas. The Aceh Oil and Gas Agency (BPMA) is considered ineffective in monitoring illegal drilling in Aceh, primarily due to its limited authority and resources.

Monitoring illegal drilling activities is often complicated by the fact that the BPMA lacks full authority to close these wells, thus relying on decisions by the central government and law enforcement agencies to take action. This is also due to the BPMA's lack of public support, as many perceive it as being too biased toward large oil companies. This situation has been exacerbated by recent illegal oil well fires, which have highlighted the high risks to public safety and the environment posed by these illegal activities. Although the BPMA attempts to educate illegal miners, these efforts are often insufficient to prevent losses and risks resulting from illegal drilling.

Given the problems associated with illegal oil drilling, which is a primary source of livelihood for the community, a solution is needed that the BPMA can address without creating new social problems, namely poverty, due to the closure of illegal oil drilling, which is a source of daily income for the community. The solution that can be done is to accelerate the ratification of the draft qanun on oil and gas mining in Aceh, in order to create a legal umbrella that can accommodate the problems faced by BPMA in enforcing the law against communities who carry out illegal drilling. There are differences in the draft qanun on oil and gas mining in Aceh with Government Regulation Number 25 of 2013 concerning Joint Management of Oil and Gas Resources in Aceh, Article 3 (1) The authority to manage oil and gas resources in waters between 12 and 200 miles from the Aceh Management Area is carried out by the Government with the involvement of the Aceh Government, while in the draft qanun on oil and gas mining in Aceh in Article 3 explains that the Aceh Government is authorized to manage oil and gas natural resources in the sea area 12 to 200 miles from the Aceh authority area while still carrying out joint management with the government, this provides greater authority for the Aceh government to manage oil and gas resources.

In managing oil and gas, the Aceh government can appoint or form a BUMD and the BUMD that is formed or appointed can cooperate with, Business Entities and/or Permanent Establishments, or partnerships with BUMA, by paying attention to several aspects, namely community empowerment, environmental recovery, employment, and Occupational Safety, Health and Environmental Protection (Syachputra, A.A., 2024). This allows the community to be involved in managing oil and gas resources, to carry out oil and gas management by paying attention to the 3 elements above, cooperation with BUMD is needed that is focused on carrying out community empowerment and environmental recovery, in this case the Aceh Provincial Government together with BPMA signed a cooperation contract (KKS) for the Bireuen-Sigli Block oil and gas with PT Aceh Energi both with appropriate and legal oil drilling operational standards.

According to Government Regulation Number 23 of 2015, the Aceh Oil and Gas Agency (BPMA) is a non-profit organization whose primary objective is not to seek profit. However, within its duties and authorities, the BPMA can enter into cooperation contracts and provide recommendations for oil and gas sellers and managers, approved by the governor and ministers, to generate substantial profits for the state. Therefore, the BPMA requires a for-profit institution, such as a regionally-owned enterprise (BUMD), so that profits earned through community empowerment programs involving community workers under the BPMA-PPSDM partnership can be channeled back to the community in the form of wages and channeled to the BUMD, generating profits for the state.

Through this initiative, the BPMA, in collaboration with the Aceh Oil and Gas Agency (PPSDM MIGAS), can also address drilling issues stemming from the financial hardships faced by Acehnese communities who still rely on oil and gas for their livelihoods. By providing education and six months of job training, graduates of the program will receive worker certification and receive legal and licensed wages. This initiative effectively addresses issues related to illegal drilling and the social conditions of the community. Furthermore, profits obtained through legal oil sales can be distributed to people who have worker certification and have been declared to have passed the job training program in the form of wages, and can also be distributed to BUMD as a state institution that strives to provide benefits to the region, so that profits can also be included in regional cash income.

4. Conclusion

Illegal oil extraction in East Aceh has serious impacts on the environment and the sustainable management of natural resources. Although this activity is a source of income for the community, it carries many risks. Illegal drilling not only violates Oil and Gas Law Number 22 of 2001, but also violates the principles of sustainable development, point 7 of the Sustainable Development Goals (SDGs), and is contrary to the principle of well-being. Concrete steps are needed to strengthen the uniqueness of the Aceh region, such as collaboration between the BPMA (Regional-Owned Enterprises Agency) and the Human Resources Development Agency (PPSDM) in managing oil resources in Aceh. This collaboration model allows profits from oil sales from regional-owned enterprises (BUMD) to be returned directly to local communities in the form of wages and necessary infrastructure development. In accordance with Government Regulation Number 23 of 2015, BPMA operates as a non-profit organization that can enter into cooperation agreements. This synergy between BPMA and PPSDM will increase the capacity of local human resources and ensure sustainable management.

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