

Police Efforts in Handling the Criminal Acts of Unauthorized Mining at Solok City Police

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Abstract. *The mining sector is one of the driving forces of the Indonesian economy in order to realize the prosperity of the people. Mining according to Article 1 number 1 of Law Number 4 of 2009 concerning Mineral and Coal Mining as amended by Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining (hereinafter referred to as the Minerba Law) is part or all stages of activities in the context of managing and exploiting minerals or coal which include general investigations, exploration, feasibility studies, construction, mining, processing and/or refining or development and/or utilization, transportation and sales, and post-mining activities. The approach method used in this research is sociological juridical, namely research based on normative legal science (statutory regulations), but not studying the normative system but observing how reactions and interactions occur when the normative system works in society. The research examines from the perspective of legal science and other written regulations related to the handling of mining crimes by the police, especially at the Solok City Police. From the results of the investigation conducted by the Investigator/Assistant Investigator in relation to the elements of the articles charged to the suspect, the Investigator/Assistant Investigator concluded that the suspect on behalf of Mr. KASMAN et al. has sufficient and convincing evidence that it is strongly suspected of having committed the crime of illegal gold mining which was discovered on Wednesday, February 1, 2023 at around 15.30 WIB in Silalang Jorong Tinggi Nagari Sibarambang District X Koto Diatas Solok Regency as referred to in the formulation of Article 158 of the Minerba Law.*

Keywords: *Construction; Exploration; Feasibility; Investigations; Studies.*

1. Introduction

Indonesia is a country rich in natural resources, one of which is mining, which includes gold, silver, copper, oil and natural gas, coal, and others.¹If these natural resources are managed well, they will contribute to the country's economic development.²Natural resource management in Indonesia is an important part of the government's economic development program. Therefore, the implementation of natural resource management regulations is a manifestation of the implementation of policies by the Government.³

Natural resources in the form of mining materials are controlled by the state to be used for the greatest prosperity of the people. State control over these mining materials is stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) which states that the earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.⁴

The principle contained in the provisions of Article 33 paragraph (3) of the 1945 Constitution can be interpreted to mean that the government as the implementer of state policy is obliged to manage and utilize natural resources to the greatest extent possible for the prosperity of the people.⁵The prosperity of the people is the spirit and ultimate goal of the welfare state which must be realized by the Indonesian state and government.⁶

The mining sector is one of the driving forces of the Indonesian economy in order to realize the prosperity of the people. Mining according to Article 1 number 1 of Law Number 4 of 2009 concerning Mineral and Coal Mining as amended by Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining (hereinafter referred to as the Minerba Law) is part or all stages of activities in the context of managing and exploiting minerals or coal which include general investigations, exploration, feasibility studies, construction, mining, processing and/or refining or development and/or utilization, transportation and sales, and post-mining activities.

¹Salim HS, 2012, Mining Law in Indonesia, Rajawali Pers, Jakarta, p. 1.

²Gatot Supramano, 2012, Mineral and Coal Mining Law in Indonesia, Rineka Cipta, Jakarta, p.1

³A. Absori, AV Yulianingrum, RA Hasmiati, & A. Budiono, Government Policies for the Natural Resource Management of Minerals and Coal Based on Social Welfare, Pena Justisia: Media Komunikasi dan Kajian Hukum, Vol. 20 No.1, 2022, p. 28.

⁴Keris 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.

⁵Adi Candra, Andri Winjaya Laksana, Reformulation of Law Enforcement Against Illegal Mining Crimes, Ratio Legis Journal, Vol.3 No.2, June, 2024.

⁶Khoirulika 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. 693.

The above definition implies that all activities starting from the research process to post-mining activities are a series of activities that must be legally accountable. Some or all stages of each mining effort must have permission from the appointed state institution and have authority in it. So that each effort can be legally accounted for accompanied by valid documents issued by the relevant party to avoid unexpected things in the future.⁷

According to Utretch, permission (*vergunning*) is when the rule maker does not generally prohibit an action, but still permits it as long as it is carried out in a manner determined for each concrete matter, then the state administrative action that permits the action is in the nature of permission (*vergunning*).⁸ Granting a permit means that the authority allows the person requesting it to carry out certain actions that are actually prohibited in order to pay attention to the public interest that requires supervision. The main thing about a permit is that an action is prohibited unless it is permitted with the aim that in the relevant provisions it is carried out in certain ways.⁹

Mining permits are required for mining entrepreneurs as a requirement before starting a mining business, anyone who carries out mining business without a permit must be prosecuted based on the laws and regulations in force in Indonesia. The Minerba Law and its implementing regulations are guidelines for management and mining permits. In reality, although there are already regulations governing mining permits and prohibiting mining practices without a permit, mining without a permit still occurs a lot.¹⁰

Based on data from the Ministry of Energy and Mineral Resources (ESDM) up to 2023, the total number of reports of illegal mining (PETI) spread across Indonesia reached 128 reports.¹¹ The illegal mining there are more than 2,700 locations. Of these, there are around 96 illegal coal mining locations, and around 2,645 illegal mineral mining locations.¹²

One of the areas that has mining potential is Solok Regency, West Sumatra. The area has long been the center of gold mining activities. With abundant natural

⁷Dany Andhika Karya Gita, Amin Purnawan, Djauhari, Police Authority in Handling Mining Crimes (Illegal Mining) According to Law Number 4 of 2009 (Study in the Indonesian National Police), *Jurnal Daulat Hukum*, Vol. 1. No. 1, March 2018, p. 24.

⁸Adrian Sutedi, 2010, *Licensing Law in the Public Service Sector*, Sinar Grafika, Jakarta, p. 167

⁹*Ibid.*, p. 168.

¹⁰Fadhly Wempie, Kumendong, Dani R. Pinasang, The Authority of the Police in Enforcing the Law Against Illegal Mining Activities in Indonesia Through Preventive and Repressive Efforts, *Lex Administratum*, Vol. IX/No. 1/Jan-Mar/2021, p. 105.

¹¹Firda Dwi Muliawati, ESDM Reveals 128 Illegal Additions Spread Across Indonesia, Here Are the Facts, <https://www.cnbcindonesia.com/news/20241112180606-4-587672/esdm-reveals-128-illegal-mining-areas-wide-spread-in-ri-this-is-the-fact>, accessed April 10, 2025

¹²Raden Ariyo Wicaksono, There are More than 2,700 Illegal Mines Spread Across Indonesia, <https://betahita.id/news>, accessed April 10, 2025.

resources, Solok holds great potential that has been exploited since the Dutch era. However, behind this potential there are serious problems, especially related to environmental damage and the rampant illegal mining activities that often lead to disasters. The existence of these illegal mines is often uncontrolled, creating natural damage, landslides that cause fatalities and cause great losses to the surrounding community.¹³

Illegal mining is an activity carried out by people or communities without permission from authorized officials. Such activities are prone to causing accidents and work safety, even uncontrolled pollution and environmental damage.¹⁴ The phenomenon of illegal mining in several areas can disrupt and threaten public security and order. This condition also indicates that the implementation of mining laws and regulations has not been running well.

The existence of disturbances to public security and order as a result of illegal mining is one of the responsibilities of the Indonesian National Police as regulated in Article 4 of Law Number 2 of 2002 concerning the Indonesian National Police (hereinafter referred to as the Indonesian National Police Law) which states that the Indonesian National Police aims to realize domestic security which includes maintaining public security and order, orderly and upholding the law, providing protection, protection, and service to the community, and fostering public peace by upholding human rights.

The Indonesian National Police, based on the provisions of Article 13 of the Indonesian National Police Law, has the main task of maintaining public security and order; enforcing the law, and providing protection, shelter, and services to the community. In carrying out these main tasks, the Indonesian National Police has the authority to carry out both preventive and repressive efforts by taking firm and real action in the field against perpetrators of illegal mining.

The Solok City Police is one of the law enforcement agencies that plays an important role in handling illegal mining crimes. As explained, the Solok area has the potential for gold mining, so illegal mining is rampant. The number of illegal mining cases handled by the Solok Police from 2019 to 2024 was 3 cases. On the other hand, illegal mining is still rampant, and often claims lives due to landslides.

Illegal gold mining in the jurisdiction of the Solok City Police is still rampant. Although fatalities continue to fall, illegal mining control is still rare. One obstacle is that when raids are carried out, the information is often leaked so that control

¹³Firmansyah, Solok Gold Problems: Between the Potential of Gold Content and Allegations of Rampant Illegal Mining, <https://bacaind.com/baca-sudutpandang/problematika-emas-solok-antara-potensi-kandungan-gold-dan-dugaan-ramaknya-tambang-ilegal>, accessed April 10, 2025.

¹⁴Nandang Sudrajat, 2010, Theory and Practice of Indonesian Mining According to Law, Pustaka Yustisia, Jakarta, p. 76.

cannot be carried out and only a few perpetrators are caught.

2. Research Methods

The approach method used in this research is sociological juridical, namely research based on normative legal science (statutory regulations), but not studying the normative system but observing how reactions and interactions occur when the normative system works in society.¹⁵ The research examines from the perspective of legal science and other written regulations related to the handling of mining crimes by the police, especially at the Solok City Police.

3. Results and Discussion

3.1. Police Efforts in Handling Criminal Acts of Illegal Mining at Solok City Police

Criminal acts of mining without a permit in the jurisdiction of the Solok City Police

To find out how to handle illegal mining crimes at the Solok City Police, the following describes an example of a case of illegal mining.

1) Case

The criminal case of illegal gold mining was discovered on Wednesday, February 1, 2023 at around 15.30 WIB in Silalang Jorong Tinggi Nagari Sibarambang District X Koto Diatas Solok Regency as referred to in the formulation of Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, with 8 (eight) suspects, namely Mr. Kasman, Mr. Erwin, Mr. Mulyadin, Mr. Fredy, Mr. Iwan Sanusi, Mr. Anwar, Mr. Supardin and Holis Marwan.

2) The Facts

a. Crime scene handling

A check was carried out on the crime scene and photographs were taken at the crime scene and a crime scene sketch was made.

1) Results found

a. The scene of the crime took place on a hillside located in Jorong Tinggi Nagari Sibarambang District, X Koto Diatas, Solok Regency.

b. The location is in the form of a hill with many trees.

c. The situation around the crime scene was quite quiet and not many people

¹⁵Mukti Fajar ND and Yulianto Achmad, 2013, Dualism of Normative and Empirical Legal Research, Yogyakarta: Pustaka Pelajara, p.47.

passed by.

2) Actions taken

- a. Making a sketch/picture of the crime scene.
- b. Recording Witnesses.
- c. Looking for information regarding the matter.
- d. Carry out other legally responsible actions.
- b. Summons: in this case no summons was made.
- c. Arrest

Eight suspects have been arrested, namely Kasman, Erwin, Mulyadi, Fredy, Anwar, Iwan Sanuri, Supardin, Horis Marwan. Each has been issued an arrest warrant and an arrest report has been prepared.

d. Detention

In this case, the suspects were detained and a report of their detention was prepared.

e. Search

In this case, no legal action was taken in the form of a search.

f. Foreclosure

In this case, evidence was confiscated in the form of:

- a) 1 (one) unit of green blower machine.
- b) 1 (one) unit of green breaker/stone breaker.
- c) 1 (one) CHQ brand scale.
- d) 1 (one) bottle containing MERCURY.
- e) 2 (two) empty MERCURY bottles.
- f) 1 (one) hammer.
- g) 1 (one) sheet of yellow Kanebo.
- h) 3 (three) logs.
- i) 1 (one) unit of Diesel engine.
- j) 1 (one) unit of yellow electric generator.

k) 1 (one) sack containing the results of mining rocks suspected of containing gold.

l) 5 (five) rounds of ammunition

g. Witness statements

There were 5 witnesses who gave statements in this case, namely two members of the National Police who were aware of the illegal mining crime. In their statements, they stated that based on the statements of the perpetrators, the gold mining process began with digging up materials in the ground using a rock breaker. Then after the excavation of the ground was estimated to contain gold, the results of the excavation of the hole in the form of rock fragments and soil were put into a sack. After that, the excavation results in the sack were put into a tube called a log by pouring it so that it was quick. After the excavation results in the form of rock fragments and soil were in the log, then mercury was given and there were iron bullets in the log, approximately three in order to smooth the rock fragments. Then the log was rotated using a diesel engine for several hours until the rock fragments were destroyed. Then after the rock fragments were estimated to be destroyed, the rock fragments and soil in the log were removed, then washed until clean and until only mercury was visible. After the mercury was separated from the rock fragments and soil, it was then filtered using a cloth, from the filter cloth the results were seen in the form of white gold. After that, the gold is taken from the filter cloth and then melted using fire to make the gold turn yellow.

Three witnesses from the community provided information which essentially stated that the mining business being handled by investigators did not have a permit.

h. Expert testimony

The expert provided information that in essence the actions of the suspects, namely Kasman, Fredy, Iwan Sanusi, Supardin, Holis Marwan, Anwar, Erwin, Mulyadin who carried out mining activities for metal minerals (gold) without being equipped with documents or permits as explained above, violated the provisions of the law, namely Article 35 of Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining and the sanctions for the actions of Mr. KASMAN et al. are in accordance with Article 158 of Law of the Republic of Indonesia Number 3 of 2020 concerning Amendments to Law of the Republic of Indonesia Number 4 of 2009 concerning Mineral and Coal Mining which reads "Any person who carries out Mining without a permit as referred to in Article 35 shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of IDR 100,000,000,000, -

The activities carried out by the suspects in the manner described above are

included in gold mining which is part of mining business activities, the suspects are not allowed to carry out gold mining activities and have violated the provisions of the law, namely Article 35 of Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining and the sanctions for the actions of Mr. KASMAN et al. are in accordance with Article 158 of the Republic of Indonesia Law Number 3 of 2020 concerning Amendments to the Republic of Indonesia Law Number 4 of 2009 concerning Mineral and Coal Mining which reads "Any person who carries out Mining without a permit as referred to in Article 35 shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of IDR 100,000,000,000, -

i. Suspect's statement

The suspect Kasman gave information related to the activity which began with digging up materials in the ground, then after the excavation was carried out it was estimated that there was gold content, the results of the excavation in the form of rock fragments and soil were taken using sacks, after the excavation results in the form of rocks and soil were taken, they were then put into a tube called a log, after the excavation results in the form of rock fragments and soil were in the log, then mercury was added and there were iron bullets in the log, approximately three pieces, then the log was rotated using a diesel engine for several hours until the crushed rock fragments that were rotated in the log were destroyed, then after it was estimated that they were destroyed, the rock fragments and soil in the log were removed and then washed until clean and only mercury was visible, and after the mercury was separated from the rock fragments and soil, it was then filtered using a cloth, from the filter cloth the results in the form of gold were visible.

The suspect stated that the owner of the gold mine was Karya. The division of the results between me and him was 30% of the gold mining results that would be obtained later. However, we have not yet obtained the gold, we have been arrested by the Solok City Police. The suspect explained that he had only started mining gold for approximately 20 (twenty) days and did not have a permit from the authorities. The suspect stated that he had not yet obtained the gold mining results, had only just started the process of separating gold from rocks and soil using logs and had been arrested by the Solok City Police.

The suspect explained the use of the tools used for gold mining, namely:

- 1) The logs are used to break rocks containing gold.
- 2) Diesel engines are used to turn the spindle motors.
- 3) Rock Drill to break rocks containing gold found in mining holes.
- 4) The blower is used as a breathing aid for workers who enter the mine

excavation hole.

- 5) Generators are used as a source of electricity during gold mining work.
- 6) Gold scales for weighing mined gold.
- 7) Mercury is used to catch the gold grains while they are in the rolling machine.

The other suspect provided information similar to that conveyed by suspect Kasman, namely that the gold mining carried out was without a permit.

3) Discussion

a. Case analysis

The case of illegal gold mining discovered on Wednesday, February 1, 2023 at around 15.30 WIB in Silalang Jorong Tinggi Nagari Sibarambang District X Koto Diatas Solok Regency as referred to in the formulation of Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, with suspects in the names of Mr. KASMAN, Mr. ERWIN, Mr. MULYADIN, Mr. FREDY, Mr. IWAN SANUSI, Mr. ANWAR, Mr. SUPARDIN and Mr. HOLIS MARWAN. The roles of the suspects are Mr. KARYA (DPO) as the owner or the one who financed the gold mining activities, while Mr. KASMAN et al as workers at the gold mining location owned by Mr. KARYA. The gold mining process begins with digging up the material in the ground using a rock breaker. Then after the excavation is estimated to contain gold, the results of the excavation in the form of rock fragments and soil are put into a sack. After that, the excavation results in the sack are put into a tube called a log by pouring it so that it is fast. After the excavation results in the form of rock fragments and soil are in the log, then mercury is given and there are iron bullets in the log, approximately three in order to smooth the rock fragments. Then the log is rotated using a diesel engine for several hours until the rock fragments are destroyed. Then after the rock fragments are estimated to be destroyed, the rock fragments and soil in the log are removed, then washed until clean and until only mercury is visible. After the mercury is separated from the rock fragments and soil, it is then filtered using a cloth, from the filter cloth the results are seen in the form of white gold. After that the gold is taken from the filter cloth and then melted using fire to make the gold yellow. Therefore, for the actions of the suspect, he is threatened as referred to in the formulation of Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining.

b. Legal analysis

Based on the statements of witnesses, experts and in connection with the statements of the suspects, it is true that there was a case of illegal gold mining which was discovered on Wednesday, February 1, 2023 at around 15.30 WIB in

Silalang Jorong Tinggi Nagari Sibarambang District. X Koto Diatas, Solok Regency, with the elements of Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, which reads "Any person who carries out a Mining business without an IUP, IPR or IUPK, as referred to in Article 37, Article 40 Paragraph (3), Article 48, Article 67 Paragraph (1), Article 74 Paragraph (1) or Paragraph (5) shall be punished with imprisonment for a maximum of 10 (ten) years and a maximum fine of IDR 10,000,000,000 (ten billion Rupiah) ". The elements are:

1) Elements of every person

Every person is a person / individual and is a legal subject / perpetrator who commits a crime who can be held responsible for his actions before the law. This can be seen from Articles 44, 45, and 49 of the Criminal Code which relate to the mental problems of perpetrators of criminal acts that only exist in humans. Articles 2-5, 7-8 of the Criminal Code / WVS, which use the words "een ieder" or each (every) person.

Based on the statements of witnesses, experts and linked to the statements of the suspects, that the element of each person in this article is the suspect named Mr. KARYA (DPO). Mr. KASMAN, Mr. ERWIN, Mr. MULYADIN, Mr. FREDY, Mr. IWAN SANUSI, Mr. ANWAR, Mr. SUPARDIN and Mr. HOLIS MARWAN and the suspects are physically and mentally healthy who according to the law can be held responsible for their actions before the law. the element of each person in this article has been fulfilled.

2) Elements of Conducting Mining Business

According to the Minerba Law, Mining is part of the mining business activities to produce minerals and/or coal and associated minerals. Then the meaning of "Doing" according to the big dictionary of the Indonesian Language is to run or do something.

Based on the testimony of witnesses, experts and strengthened by the statement of the suspect, that Mr. KARYA (DPO) acted as the owner of the mine or the one who funded the mining activities. Then for Mr. KASMAN et al as workers in the mine. The gold mining process begins with digging the material in the ground using a rock breaker. Then after the excavation of the ground is estimated to contain gold, the results of the excavation of the hole in the form of rock fragments and soil are put into a sack. After that, the excavation results in the sack are put into a tube called a log by pouring it so that it is fast. After the excavation results in the form of rock fragments and soil are in the log, then mercury is given and there are iron bullets in the log, approximately three in order to smooth the rock fragments. Then the log is rotated using a diesel engine for several hours until the rock fragments are destroyed. Then after the rock fragments are estimated to be destroyed, the rock fragments and soil in the log

are removed, then washed until clean and until only mercury is visible. After the mercury is separated from the rock fragments and soil, it is then filtered using a cloth, from the filter cloth the results are seen in the form of white gold. After that the gold is taken from the filter cloth and then melted using fire to make the gold yellow. All the tools used for mining activities belong to Mr. KARYA (DPO). Thus the elements in this article have been fulfilled.

3) Mining elements without IUP, IPR or IPK

According to Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. what is meant by IUP, IPR and IUPK are as follows:

- a. IUP is a permit to carry out mining business.
- b. IPR is a permit to carry out mining business in a people's mining area with limited area and inventory.
- c. IUPK is a permit to carry out mining business in a special mining permit area.

Based on the statements of witnesses, expert witnesses and strengthened by the statements of each suspect, if Mr. KASMAN et al in conducting gold mining business did not have an official permit issued by the government in the form of IUP, IPR and IUPK. This is strengthened by the statement of an expert witness from the Mineral and Coal Mining Supervision Service of West Sumatra Province who explained that Mr. KARYA (DPO) as the owner of the mine never submitted a permit application to the Minister of Energy and Mineral Resources and the Governor in accordance with the delegation. Thus the elements in this article have been fulfilled

4. Conclusion

From the results of the investigation conducted by the Investigator/Assistant Investigator in relation to the elements of the articles charged to the suspect, the Investigator/Assistant Investigator concluded that the suspect on behalf of Mr. KASMAN et al. has sufficient and convincing evidence that it is strongly suspected of having committed the crime of illegal gold mining which was discovered on Wednesday, February 1, 2023 at around 15.30 WIB in Silalang Jorong Tinggi Nagari Sibarambang District X Koto Diatas Solok Regency as referred to in the formulation of Article 158 of the Minerba Law. That for the purpose of the investigation and based on the results of the examination obtained sufficient evidence, the suspect is strongly suspected of committing a crime that can be subject to detention and the suspect is feared to escape, damage or remove evidence and or repeat the crime, the suspects are detained at the Solok City Police Headquarters Detention Center. For that, for the sake of legal certainty and to be held accountable for his actions, the suspect on behalf of Mr. KASMAN

et al. is worthy of being prosecuted and tried in accordance with the place of the crime (Locus Delictie) namely in the jurisdiction of the Solok District Court.

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