

FACTORS INFLUENCING LAW ENFORCEMENT AGAINST ILLEGAL SAND MINING ACTIVITIES (C EXCAVATION) CARRIED OUT BY VILLAGE HEADS IN KIKIM DISTRICT, LAHAT DISTRICT

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Abstract

The Indonesian state is based on the 1945 Constitution of the Republic of Indonesia which emphasizes that the Indonesian state is not only based on power (power state) but also based on law (rule of law). Indonesia is a country with natural resources in the form of coal and minerals. However, the activities carried out by the community sometimes violate the law because mining is carried out without permits or illegal mining. The research method used is empirical juridical. The formulation of the problem studied and analyzed is the factors that influence law enforcement against illegal sand mining activities (excavating c) carried out by village heads in the Kikim district, Lahat district. The result is the legal factor itself. There is no legal umbrella that gives permanent legal power to the police to control illegal mining practices. Second, the Law Enforcement Factor, namely the lack of socialization of law enforcement, is a factor causing the rise in illegal sand mining crimes. Weak supervision and law enforcement give the impression of giving freedom and not deterring illegal sand mining perpetrators.

Keywords: *influencing factors, law enforcement, illegal mining*

INTRODUCTION

The Indonesian state based on the 1945 Constitution of the Republic of Indonesia makes it clear that the Indonesian state is based on law (rechtsstaat), not just power (machtsstaat). (Muabezi, 2017). Apart from that, Indonesia is a country with natural resources in the form of coal and Mineral C. Many people take advantage of the natural wealth of coal by mining it themselves. However, the activities carried out by the community sometimes violate the law because mining is carried out without permission or illegal mining (Miftahulljannah, 2020). The community, which is the basic element in the formation of a country, should unite to protect existing natural resources and utilize them properly according to the rules. (Milfayette, 2014).

A phenomenon that occurs a lot at the moment is the problem of C excavation mining in the form of illegal sand (Illegal mining). Illegal Mining is a criminal act that occurs in mineral and coal mining business activities. This dispute concerns the existence of criminal norms in

legislation in the field of mineral and coal production, both in the law which allows the regulation of criminal norms in two legal documents, and in regional normative legal acts. Illegal Mining is a common phenomenon today. Illegal mining is the mining or extraction of Natural Resources (SDA) by communities or companies without permits, operating procedures, government regulations or good and healthy mining principles, or often referred to as good mining practices. The impact of illegal mining has three dimensions, namely economic, social and environmental(Saputra et al., 2023).

The economic impact is that illegal mining exploits natural resources on a large scale, distributing and selling the results of illegal mining. So they avoid government taxes and damage market prices, because the products they sell are generally below market prices. The environmental impacts caused are a decrease in environmental quality, pollution, causing landslides and floods, as well as reducing the number of animals and habitat(Satwika & Wirasila, 2020). The social impact of illegal miners also affects the activities of communities around mines, for example communities and companies that ignore the safety of mine workers and local residents, miners who dig through holes or tunnels and cause lack of oxygen access, miners who do not learn enough, their safety will be threatened. Not only that, the people around them who are affected by illegal mining also suffer due to environmental damage. Restrictions and regulations on illegal mining are regulated in Law no. 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining in article 158 formulates: every person who carries out mining business without an IUP, IPR or IUPK as intended in article 37, article 40 paragraph (3), article 48 , article 67 paragraph (1), article 74 paragraph (1) or paragraph (5) is punishable by a maximum imprisonment of 10 (ten) years and a maximum fine of IDR 10,000,000,000.00- (ten billion rupiah). The existence of this article is not without reason. This of course departs from the constitutional concept which states that earth, water and other natural resources are controlled by the government. Therefore, in this case the land that is the mining area belongs to the government(Prianter Jaya Hairi, 2018).

Likewise, illegal mining activities are starting to emerge in Lahat Regency. Mining activities in Lahat Regency are widely questioned by various groups, including those with natural resource potential in the form of coal and C minerals with good quality. Many mining activities carried out in Lahat Regency are carried out without obtaining permission from the Government, so it is appropriate that this issue must be taken into consideration and a problem that must be resolved by the Lahat Regency Mining and Energy Department. Mining in Lahat Regency is usually large scale, such as coal or quarry mining. C they generally have a permit, on average the illegal mining actors in Lahat Regency itself are from parties or communities that are near river flows or close to mining locations. However, the Lahat Regency government, especially in the field of supervision and development, such as the South Sumatra Province Regional IV UPTD Service which coordinates with the Lahat Police by providing guidance and supervision, providing information on what legal sanctions are obtained, criminal sanctions as in Article 158, as well as what negative impacts are good for the country. as well as for the surrounding community(Minerals, 2021).

The criminal act of illegal mining will be contrary to the state development proclaimed by the government through Law no. 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining article 3 where according to this article minerals must contribute to the sustainable development of the State with the aim of managing. minerals and coal is to ensure the effectiveness of the implementation and control of mining business activities through efficiency, effectiveness and competition; ensuring the benefits of mining and coal in a sustainable and environmentally friendly manner; guarantee the availability of minerals and coal as raw materials and/or as energy sources for domestic needs; supporting and developing national capabilities to be able to compete effectively at national, regional and international levels; increasing the income of local, regional and state communities, as well as

creating employment opportunities for the greatest welfare of the people; and guarantee legal certainty in the implementation of coal mining and trading activities (Hakim & Aprinisa, 2022).

Illegal mining as a criminal offense against state property is an inseparable part of Law no. 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. However, the law does not define mining without a permit (illegal sand mining (Excavation C)). (Son, 2021) Illegal mining is an interpretation of mining that does not have a permit. The permits in question are 3 types of permits recognized in Law no. 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. The three permits are IUP (Mining Business Permit), IPR (People's Mining Permit), and IUPK (Special Mining Business Permit). This is indirectly stated in Chapter XIII of the Criminal Provisions, which clearly states administrative sanctions and criminal sanctions for mining without a permit (illegal mining). (Friskilia Junisa Bastiana Darongke, Dientje Rumimpunu, 2022).

This problem is made even more complicated by the fact that illegal mining activities are carried out by unscrupulous village government officials who are supposed to protect the community. For example, in the case carried out by village heads in West Kikim District in Lahat Regency, namely "The case of two Village Heads in West Kikim District, caught in a case of alleged illegal mining of Excavation C in their village, which was arrested by the Special Investigation Unit of the Lahat Police Criminal Investigation Unit on Thursday 23 September 2022 then, now enter a new chapter. The case files for the two suspects have been transferred to the Lahat District Prosecutor's Office (Kejari). The two village heads who are suspects are Saparudin (55) Saung Naga Village Head and Susanto (57) Penantian Village Head, West Kikim District. Both of them were caught in the Illegal Mining (PETI) case under Article 158 of Law no. 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning mineral and coal. The files of the two Illegal Mining (PETI) suspects have been handed over to the Lahat Prosecutor's Office on Tuesday 5 October 2022. We will hand over the two suspects and their evidence to be tried at the Lahat District Court. The two village heads were thrown by the Special Investigation Unit of the Lahat Police Criminal Investigation Unit behind bars because they were suspected of carrying out illegal mining of Excavation C in their village. In the system, sand is sucked from the river using a Dompeng, then flowed through a pipe to land where it is filtered, then put into a transport vehicle. The suspect has been carrying out illegal mining for around 2-3 years, with the mining proceeds for personal use. Based on decision number 403/Pid.Sus/2021/PN Lht and decision number 404/Pid.Sus/2021/PN Lht, defendant I and defendant II have been sentenced to prison for 4 (four) months and a fine of IDR 5,000,000.00. (five million rupiah) with the provision that if the fine is not paid it will be replaced by imprisonment for 4 (four) months.

Based on the description above, the author is interested in studying and analyzing what are the influencing factors in law enforcement against illegal sand mining (Excavation c) activities carried out by village heads in Kikim District, Lahat Regency.

RESEARCH METHOD

The type of research used is field research, in this research the researcher used an empirical juridical approach (Suharsimi, 2019). The empirical approach is an approach that is used to conduct research directly to collect all information related to this research, either by interviews with related parties or by careful observation of the research object. The data sources used in this research consist of primary data and secondary data (Liber Sonata, 2014). Data collection methods were carried out through interviews, document studies. The resource persons in this research were members of the Head of Criminal Investigation Unit of the Lahat Police. Meanwhile, the research location was carried out at the Lahat Police Station, with sources of information coming from investigators, superior investigators and high-ranking police officials.

DISCUSS AND ANALYSIS

Factors Influencing Law Enforcement of Illegal Sand Mining (Excavating) Activities Carried Out by Village Heads in Kikim District, Lahat Regency.

Legally, illegal sand mining activities can be prosecuted, in other words law enforcement officers can carry out their duties to take action against perpetrators of illegal mining for further processing and even taking them to court.(Badaru et al., 2023). This is intended not only to enforce criminal law, but also to protect the environment itself from the danger of damage. However, in reality, this does not seem to be going as expected, so stricter and clearer law enforcement regarding illegal sand mining is still needed.(Sirait, 2022). Regarding the theory of factors influencing law enforcement from Soerjono Soekanto, there are five factors that influence law enforcement which are closely interrelated which are the essence of law enforcement and are also a benchmark for the effectiveness of law enforcement, which are described as follows:

First, the legal factor itself. There is no legal umbrella that gives permanent legal power to the police to control illegal mining practices. Laws in the material sense are written regulations that are generally applicable and made by legitimate Central or Regional Authorities. Laws in material terms include the following two things: Central regulations which apply to all citizens or a certain group only or which apply generally in some parts of the country. Local regulations that only apply in one place or area(Badaru et al., 2023).

Apart from that, the police as investigators in handling mining cases have not included allegations and charges of environmental crimes in mining cases. This means that the law exists in society but has not been maximally enforced because the government and the police still give a sense of tolerance to people who carry out sand mining without permission.(Ariyanti et al., 2020). This further undermines the dignity and dignity of the law in the community, so that the community becomes the party that suffers the greatest loss due to the impacts arising from this sand mining activity.(Surya, 2019). It is true that basically sand mining activities without a permit are a promising job opportunity, but environmental damage and huge losses to regional treasuries are the reasons why the law must be present to work and fix things. Regarding the enactment of this law, there are several principles whose aim is for the law to have a positive impact, so that it achieves its goal, namely effective(Hulukati & Isa, 2020).

Second, the Law Enforcement Factor. Sociologically, every law enforcer has a position (status) and role (role). Social position is a certain position in the social structure and is actually a container that contains rights, namely the authority to do or not act and obligations, namely certain burdens or duties. A person who has a certain position is usually called a role holder.(Prabowo, 2007). This is in line with the results of an interview with Renaldo Meiji Hasoloan as Judge at the Lahat District Court stating that law enforcement is one of the driving factors for illegal sand mining crimes. According to Satjipto Raharjo, law enforcement is essentially the enforcement of ideas or concepts about justice, truth, social benefits, and so on. So law enforcement is an effort to make these ideas and concepts become a reality. Lack of socialization of law enforcement is a factor causing the rise in illegal sand mining crimes(Siregar, 2004). Weak supervision and law enforcement give the impression of giving freedom and not deterring illegal sand mining perpetrators. This is due to the low number of settlements for illegal sand mining cases(Saraya & Puspitasari, 2020).

Apart from that, the results of an interview with Sintia as staff of the Lahat Regency Environmental Service stated that the lack of coordination between the Police and the Lahat Regency Environmental Service had an impact on law enforcement carried out by the police, because in carrying out the process of investigating criminal acts of sand mining without a

permit it was very necessary to have whether or not there is proof of a valid mining business permit from the relevant agency(Sudrajat, 2014). Therefore, it is very important to carry out good coordination so that the law enforcement process can be carried out, if there is no good coordination this can hamper the investigation process or the implementation of law enforcement.

Thus, when the Lahat Regency Police carried out operations or raids on sand mining locations, many miners who were carrying out mining activities were found unable to show a valid mining business permit from the Lahat Regency Environmental Service. The miners argued that they had submitted a permit application to the relevant agency, but the relevant agency had not yet issued an official mining business permit.

Law enforcers usually have several positions and roles at once so that conflicts arise between various positions and roles (status conflict and conflict of roles). If in reality there is a gap between the role that should be played and the role that is actually carried out or the actual role, then there is a role gap (role distance).(Ariyanti et al., 2020).

The role issue is considered important because law enforcers in their discretion involve making decisions that are not bound by law, their personal judgment also plays a role. In law enforcement, discretion is very important because there are no laws that are so complete that they can regulate all human behavior, there are delays in adapting legislation to developments in society, giving rise to uncertainty, a lack of costs to implement the law as intended. what is desired by the legislators, and there are individual cases that require special handling(Awalananda & Rusdiana, 2019). Obstacles that may be encountered in implementing roles that should come from role models or law enforcers, may come from oneself or the environment, namely limited ability to put oneself in the role of other parties with whom one interacts, a relatively low level of aspiration, very limited enthusiasm to think about the future so that it is very difficult to make projections, there is no ability to postpone the satisfaction of certain needs, especially material ones, and a lack of innovative power which is actually the counterpart of conservatism(Sulaiman & Balikpapan, 2020). The obstacles mentioned above can be overcome by educating, training and getting used to having the following attitudes: 1) An attitude that is open to new experiences and discoveries. 2) Always be ready to accept changes after assessing the shortcomings that exist at that time. 3) Be sensitive to the problems that occur around him based on an awareness that these problems are related to him. 4) Always have as complete information as possible regarding the establishment. 5) Orientation to the present and future is actually a sequence. 6) Be aware of the potential that exists within him and believe that this potential can be developed. 7) Stick to a plan and don't resign yourself to bad luck. 8) Believe in the ability of science and technology to improve human welfare. 9) Be aware of and respect the rights, obligations and honor of yourself and other parties. 10) Stick firmly to decisions taken on the basis of sound reasoning and calculations(Sulaiman & Balikpapan, 2020).

Third, the Facilities or Facilities Factor that Supports Law Enforcement (Means Factor). The police do not yet have a sufficient budget to control illegal sand mining. Without certain facilities or facilities, it is impossible for law enforcement to run smoothly and achieve its goals. These facilities or facilities include, among other things, educated and skilled human power, good organization, adequate equipment, sufficient finances, and so on. Facilities or facilities have a very important role in law enforcement because without these facilities or facilities, it would not be possible for law enforcers to harmonize their proper role with their actual role.)(Wibisono, 2021)

Fourth, Community Factors. Law enforcement comes from society and aims to achieve peace in society so that society can influence law enforcement. The lack of legal awareness of the community in Lahat Regency has resulted in an increasing number of actions that violate legal provisions regulated in the law. People who are less familiar with administration are one

of the obstacles in eradicating illegal sand mining.(Sibuea, 2018). The existence of provisions in Law number 23 of 2014 which states that all permits are delegated to the governor's office has increasingly made the sand mining community in Kuantan Singingi Regency increasingly lazy about processing business permits to carry out mining. This is in line with an interview with Ahmad Letondot Basarin as a clerk and community figure in Lahat Regency who stated that there is a lack of legal awareness in the community regarding mining. Legal awareness is a factor in legal discovery. Awareness of the law means awareness that the law protects the interests of society. The emergence of this law is essentially due to clashes or conflicts between human interests. In protecting their respective interests, humans in society must remember, take into account, safeguard and respect the interests of other humans so that there is no conflict or harm to other parties or other people. So legal awareness should be about what we do or do and what we don't do or do, especially towards other people. This means awareness of our legal obligations towards other people and the country. The lack of public legal awareness means that there are more and more actions that violate the legal provisions regulated in the law(Harsanto Nursadi, SH., 2012).

Apart from that, this is in line with the results of an interview with Renaldo Meiji Hasoloan as Judge at the Lahat District Court stating that "Some people do not understand about the environment and also about the importance of a sustainably maintained environment, sand mining not only provides profits and benefits but also cause problems. It is also felt that public knowledge regarding permits for sand mining is still lacking, this has resulted in mining becoming more widespread, this is also driven by economic factors faced by the community. Sand mining activities that use heavy equipment to dredge material cause ecological and social problems for the surrounding environment.

Legal awareness is a factor in legal discovery. Awareness of the law means awareness that the law protects the interests of society. The emergence of this law is essentially due to clashes or conflicts between human interests(Sekar, 2022). In protecting each other's interests, humans in society must remember, take into account, safeguard and respect the interests of other humans so that there is no conflict or harm to other parties or other people. So legal awareness should be about what we do or do and what we don't do or do, especially towards other people. This means awareness of our legal obligations towards other people and the country. The lack of public legal awareness means that there are more and more actions that violate the legal provisions regulated in the law(Solikin, 2019).

Society has a great tendency to interpret the law and even identify it with officers, in this case law enforcers as individuals. One of the consequences is that the good and bad behavior of law enforcers, which in his opinion is a reflection of the law as a structure and process(Ibrahim et al., 2009). The community should be given knowledge of their rights and obligations so that they have legal competence, which is impossible if community members 1) do not know or are aware that their rights are being violated or disturbed. 2) Not aware of the existence of legal efforts to protect their interests. 3) Powerless to utilize legal measures due to financial, psychological, social and political factors. 4) Has no experience of being a member of an organization that fights for its interests. 5) Having bad experiences in the process of interaction with various elements of formal legal circles(Mustafa, 2017).

Fifth, Cultural Factors. Sand mining has become a livelihood and a habit that has become a culture among the people. Mining community owners have limited job opportunities and many necessities of life that need to be met, so they take their own initiative to get work and be able to meet their living needs, namely by mining sand along one river and another.(Arrozy et al., 2018).

People who are less familiar with administration are one of the obstacles in eradicating illegal sand mining. The existence of provisions in Law number 23 of 2014 which states that all permits are delegated to the governor's office has made the sand mining community

increasingly lazy and procrastinate in processing business permits to carry out mining. They don't even process mining permits. Due to these obstacles, the government needs to provide guidance, supervision and termination of mining activities in dangerous locations (prohibited zones). (Dimas Yulius Kofi et al., 2023).

The culture of the legal system basically includes the values that underlie the applicable laws, values which are abstract conceptions of what is considered good so that it is adhered to and what is considered bad so that it is avoided. These values are usually a pair of values that reflect two extreme conditions that must be harmonized. The three pairs of values that play a role in law are the value of order and peace, physical or material values and spiritual or moral values, the value of permanence or conservatism and the value of novelty or innovation. universal, the suitability of which may differ according to the circumstances of each culture in which the pair of values is applied. Meanwhile, the pair of material values and morals is also a pair of values that are universal, but in reality in each society differences arise due to various kinds of influences, for example the influence of modernization activities in the material sector which places material values in a higher position. from moral values so that in the process of institutionalizing law in society, the existence of negative sanctions is more important than awareness of obeying the law. The pair of conservatism values and innovation values always plays a role in the development of law because law is not only considered to only follow changes that occur and aims to maintain the status quo, on the contrary it is also considered to function as a means of making changes and creating new things, because the harmony of these two values will placing the law in its proper position and role (Arfiani & Fahmi, 2022).

Zainuddin Ali also stated factors that can influence the effectiveness of law in society, namely the legal rules or regulations themselves, officers or law enforcers, facilities or facilities used by law enforcers, and public awareness. Efforts that can be made to increase public legal awareness are by first increasing legal knowledge, understanding of the law, compliance with the law, and expectations of the law. (Chaerul Risal, nd)

CLOSURE

Conclusion

Factors that influence law enforcement regarding illegal sand mining (excavating) activities carried out by village head individuals in Kikim District, Lahat Regency, namely First, the Legal Factor itself. There is no legal umbrella that gives permanent legal power to the police to control illegal mining practices. Second, the Law Enforcement Factor, namely the lack of socialization of law enforcement, is a factor causing the rise in illegal sand mining crimes. Weak supervision and law enforcement give the impression of giving freedom and not deterring illegal sand mining perpetrators. This is due to the low number of settlements regarding illegal sand mining cases. Third, the Facilities Factor where the Police do not yet have an adequate budget to control illegal sand mining. Fourth, Community Factor, where there is a lack of legal awareness in the community regarding mining. Fifth, Cultural Factors. Sand mining has become a livelihood and a habit that has become a culture among the people. Mining community owners have limited job opportunities and many necessities of life that cannot be met, so they take their own initiative to get work and be able to fulfill their daily needs, namely by mining sand along the Kuantan River and other rivers.

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