

State Accountability: Utilization And Management Of Natural Resources (Gold Mining) In Realizing Community Welfare In Mandailing Natal Regency

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Abstract

Natural resource wealth is a blessing and a gift given to the country to be managed and used for the greatest welfare of all the people. One source of natural wealth is in the mining sector, which, if managed well, will bring prosperity to the people. The illegal mining case currently drawing government attention is due to the high number of fatalities resulting from illegal mining activities in Mandailing Natal Regency. The government's current focus is on urging the public not to engage in illegal mining and strictly enforcing the law against illegal mining activities. This research uses data obtained thru interviews and a study of court decisions. This data is used to identify differences and uncover issues related to law enforcement against illegal mining. The results of this study indicate that people are involved in illegal mining due to a lack of job opportunities and the depletion of natural resources owned by the community, which are controlled by capital owners.

Keywords: Illegal Mining, Natural Resource Management, Criminal Sanctions, Welfare

1. INTRODUCTION

Mining, one of the businesses undertaken by the people of Mandailing Natal Regency, has become a serious issue for the government (sari Nainggolan, 2018). The mining activities are mostly carried out by the community traditionally and without official permits from the government (Ranggalawe et al., 2023). The numerous cases occurring in the Mandailing Natal community due to mining have become a serious issue for the government to address the existing problems, such as the many fatalities caused by landslides resulting from mining activities.

The management of natural resources in Mandailing Natal Regency should be a concern for the government to manage and educate the community on the utilization of the natural resources available (FITRIANI, 2024). Based on Article 33, paragraph 3 of the 1945 Constitution, which states that the state as the manager of natural resources is obliged to provide the greatest possible benefits to the people. The explanation of Article 33, paragraph 3, is not implemented, especially for the Mandailing Natal community, which has abundant natural resources, particularly gold. The government's lack of attention has created an opportunity for irresponsible communities to exploit natural resources by committing legal violations and using the community as a justification for the illegal mining activities that occur.

Poverty and low income among the Mandailing Natal community are reasons for engaging in illegal mining, which carries very high risks (Ramly, 2022). The existence of social inequality in the Mandailing Natal community further exacerbates problems in mining business activities. The traditional mining process requires very high costs, making it difficult for illegal mining activities to guarantee the profits obtained (Makmudin, 2024). The government should pay attention to the management of natural resources as regional income if it can be managed together with the community.

In its development, crime does not only occur against individuals but can also occur in the community environment. For example, illegal mining of gold, silver, copper, coal, diamonds, and others, which is done illegally or pollutes the environment using hazardous chemicals. The use of chemicals by miners to purify gold causes environmental pollution due to waste being disposed of carelessly and will have a

widespread impact on the community (Wibowo et al., 2024). A study of the norms of Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 on Mineral and Coal Mining creates discriminatory treatment of people's mining activities in various regions, which are usually carried out conventionally. Armed with limited experience and inadequate tools and capital, the community then chooses to independently engage in mining activities. The government or companies identify the mining community with various terms, such as illegal miners, unconventional mines, unlicensed mining, or people's mines. This stigma is given to differentiate the profile and working methods of the community as miners from companies that use advanced production tools. Culturally, people's mining cannot be viewed from just one perspective. Many accusations arise if people's mining exists solely due to the allure of profitable economic reasons. Although this is one of the various factors, on a social scale, there are several other factors that significantly drive the emergence of people's mining.

The existence of people's mining is actually regulated by Law No. 4 of 2009 concerning Mineral and Coal Mining, which also includes provisions on people's mining. It has been emphasized in the legal provisions, specifically the Provincial Regulation of the Bangka Belitung Islands on General Mining Management, that it should be enjoyed by the community without exception, but this must be supported by the community's legal culture towards the law. In the journey from the birth of Law No. 4 of 2009 to the present, there have been disputes, social conflicts, or disputes during the determination of mining areas, licensing, overlapping plantation or forestry sectors, as well as failures in waste management or intentional pollution and environmental damage caused by mining business activities. To improve it, integration between the two subsystems of modern law and the subsystem of traditional law is necessary (Rahayu & Faisal, 2021).

2. LITERATUR REVIEW AND METHOD

The Welfare State Theory was introduced by Spicker, who defined the welfare state as a social welfare system that gives a greater role to the state (government) to allocate part of the public funds to ensure the fulfillment of its citizens' basic needs. The welfare state is aimed at providing social services for all its residents, as well and as much as possible. The welfare state strives to integrate resource systems and organize a service network that can maintain and enhance the welfare of citizens fairly and sustainably. It means that a welfare state is the existence of a state, where the government is considered responsible for ensuring a minimum standard of living welfare for every citizen (Roza, 2019).

The theory used in this research aims to provide solutions to the problems occurring in the utilization and management of natural resources in Mandailing Natal Regency. The role of the state should ideally provide contributions and allocate income from the wealth of natural resources (ROZA, 2021). Based on the above theory, through effective policies grounded in the values of social justice, the welfare of the people will be realized through good management by the state (Marsudi & Purbasari, 2022).

Investment in the mining sector is fundamentally related to the welfare of the people. The welfare of the people is indeed something important in the life of a nation. The problem arises when the welfare of the people is wrapped in environmental destruction; it will become a nightmare for the people. Welfare that is only temporary is not true welfare, but rather welfare framed by a mirage. Welfare based on environmental destruction is the beginning of the people's suffering (Palempung et al., 2023).

The role of the national mining sector is very important in enhancing the economy and sustainable development, namely by increasing national income, contributing foreign exchange, creating jobs, generating a favorable trade balance through exports, attracting investment, assisting in infrastructure development, and providing welfare for the surrounding community. In sustainable development, the mining sector manages mineral resources for future generations, promotes innovation and green technology, develops regional infrastructure, and provides jobs and improves the welfare of the surrounding community (Widyaningrum & Hamidi, 2024).

Illegal Mining (PETI) remains a prolonged issue to this day. According to the Ministry of Energy and Mineral Resources (ESDM), there are more than 2,700 illegal mining sites scattered throughout Indonesia. Of this number, approximately 96 sites are coal mining and around 2,645 sites are mineral mining based on 2021 data (third quarter) (Cadizza & Pratama, 2024).

The research method used is the Juridical-Normative Legal Research method, which can also be referred to as doctrinal legal research (Walujan, 2024). This research uses data from court decisions that have permanent legal force or are final and binding (*inkracht*). The data sources for this research are also obtained from interviews conducted with illegal mining perpetrators. The legal approach used in this

research aims to examine the conformity of law enforcement and identify the weaknesses in legal regulations that have led to the prevalence of illegal mining in Mandailing Natal Regency. Based on the overall data, it will serve as a source to find solutions to the problems by formulating or reconstructing the existing legal regulations.

3. RESULTS AND DISCUSSION

The Mandailing Natal community, who work as traditional gold miners, use makeshift tools with a dompeng located at the gold mining site (Siregar et al., 2023). The location of the gold search is in the form of a hilly area with a slope of 90° (ninety degrees), beneath which there is a pond with a depth of 10 (ten) meters to hold the spray water for the hills, located in the Tombang Tinggi area, Pulo Padang Hamlet, Simpang Durian Village, Lingga Bayu District, Mandailing Natal Regency.

Then, the gold panning activities at the gold mining site are carried out by first assembling the gold panning equipment, which includes: 2 (two) units of 20 HP Dompeng machines, 1 (one) unit of NS machine (water suction device), 1 (one) unit of keong (device for sucking sand, soil, and gravel), several units of 4 (four) meter long PVC pipes, 1 (one) set of spray hoses, 1 (one) unit of a wooden plank erekan with a length of 4 (four) meters, and several units of 35-liter oil drums. Then the NS machine (water suction device) is turned on so that water from the reservoir pool is sucked in, and the water enters the keongan and the suction pipe. Then, the other branch of the suction pipe is closed using a hand that was previously tied with cloth to prevent the water entering the keongan from flowing down. Next, water is sprayed from the keongan to the hillside until the soil is eroded and enters the reservoir pool. Then, the second machine is turned on to suck the slurry (water mixed with sand and stones) to the erekan/gold filtering through the cut and connected pipe to ensure that the water flowing to the erekan does not spill from the erekan.

Mining conducted traditionally is very dangerous for the miners themselves and damages the environment because it can cause the surface of the holes sprayed with water to collapse (Fahrudin, 2018), and landslides can cover the pits, which not only endangers the miners but can also damage the soil structure and cause landslides and flash floods. Traditional mining activities in the Mandailing Natal community are carried out by the locals, but most of the illegal mining is managed by individuals from outside the Mandailing Natal community (Pulungan, 2025). The distribution of profits generated from the mining process is divided with 45% (forty-five percent) of the proceeds, while the landowner receives 10% (ten percent).

Based on the licensing data issued by the Office of Energy and Mineral Resources of North Sumatra Province, the mining activities conducted by the community do not yet have a WIUP (Mining Business License Area) as determined by the Ministry of Energy and Mineral Resources for North Sumatra Province. Therefore, the Mining Business License (IUP) for the Production Operation of Metal Mineral Groups, especially gold, has not yet been issued. Consequently, the mining locations owned by the community in Mandailing Natal do not have a Mining Business License (IUP) for Metal Minerals, particularly gold, whether under the name of a business entity, cooperative, or individual (Sari, 2021).

That since the enactment of the Republic of Indonesia Law Number 23 of 2014 concerning Regional Government, the authority to issue Mining Licenses has become the authority of the Provincial Government, thus the authority to issue Business Licenses for metal mineral mining such as gold and other mineral resources in the Mandailing Natal Regency area is the authority of the North Sumatra Provincial Government, in this case, the Governor. Mining activities that do not have government permits, whether by corporate entities or individuals, based on Article 158 of the Republic of Indonesia Law Number 4 of 2009 concerning Mineral and Coal Mining, can be held criminally liable (Darongke, 2017). Illegal mining is also regulated under Article 359 of the Criminal Code.

Normative conflicts occur because the authority of district/city regions, such as the authority to establish People's Mining Areas (WPR) and issue Mining Business Licenses (IUP), which under the Minerba Law were the authority of the regent/mayor, has shifted to the provincial level. The transfer of authority is not accompanied by the revocation of supervisory powers and sanction enforcement against holders of IPR, IUP, or IUPK. Juridically, that authority still resides with the regents/mayors based on the valid and still-in-force Minerba Law as positive law. Government practice shows the subordination of the government to the Regional Government Law as a general and new rule (*lex generalis-posterior*). For some circles, this practice indicates the government's failure to implement legal norms as it should. However, the way laws

are enforced reflects the government's propriety in governance and nation-building, both in the eyes of the public and the international community (Kartowiyono, 2017).

That in the application of criminal law to mining in a specialized manner, the application of law to illegal mining violations must use Article 158 of the Republic of Indonesia Law Number 4 of 2009 concerning Mineral and Coal Mining as the organic rule governing mining (Umboh et al., 2024). There are several regulations that can ensnare illegal mining perpetrators, as the consequences of illegal mining actions create legal uncertainty and violate legal principles in their application. Based on the systematic specialist principle, a rule cannot be applied if the act in question has been specifically regulated by a law that concretely and specifically relates to the elements of that act.

In the current application of the law, there are several regulations used to ensnare actions that are specifically regulated by law (Sidik, 2013). Specifically, the laws regarding mineral water and coal mining, based on data obtained through court rulings, contain legal provisions used to ensnare illegal mining perpetrators by utilizing Law Number 39 of 1999 on Corruption Crimes.

Legal uncertainty will raise concerns for investors who want to invest in the field of natural resource management in Indonesia (Hartana, 2017). The impact caused by the numerous regulations that can govern a legal act also creates the practice of buying and selling articles in law enforcement against criminals. Poverty and crime will always haunt communities in mining areas due to the lack of transparency in the management of natural resources, which can lead to the abuse of power in the utilization of these resources.

The legal policy in the Minerba Law is directed towards the development of practical law, where government provisions related to regulations support practical matters in the mining sector, regulating rights and obligations as well as the protection of mining entrepreneurs and others. The increasing business activities by private parties and state-owned enterprises in the mining sector are becoming increasingly evident due to the rising demand for industrial raw materials. The previous Minerba Law, as the author has described above, has not yet become a solution regarding the legal needs in the issues within the mining sector and the development of mineral and coal mining. The enactment of the new Minerba Law has brought forth both pro and contra parties (Akbar, Rasyid, & Fuady, 2021). The pro side of the revision of the Minerba Law believes in the urgency of a clearer regulatory update because the previous regulations were deemed inadequate. Meanwhile, the opposing side considers the formation of new regulations regarding minerba to be solely for the benefit of major capital owners in mining investments. Additionally, the process of forming this regulation is considered too hasty from a formal perspective, especially because it was carried out during the Covid-19 pandemic. In addition, the amendment of the Minerba Law is considered to have material defects in the substance of the articles in question, as well as other issues related to the environment and public health, resulting in low regulation in its implementation in society (Al Idrus, 2022).

4. CONCLUSIONS

Criminal sanctions against illegal mining found in the Mineral and Coal Law are also very low, which does not have a deterrent effect on the perpetrators, and the damage caused by illegal mining cannot provide recovery. The existence of regulations that formulate provisions for criminal law enforcement on natural resources and strict sanctions will provide a deterrent effect on the perpetrators, and the imposition of recovery sanctions for environmental damage caused by natural resource management activities can address the complexity of mining and natural resource management issues in Indonesia.

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