

LAW ENFORCEMENT FOR ILLEGAL GOLD MINING ACCORDING TO INDONESIA'S MINERAL AND COAL MINING LAW NUMBER 4 YEAR 2009

SRI WAHYUNI *

Associate Professor, Law Faculty, Universitas Islam Riau, Indonesia.

*Corresponding Author Email: sriwahyuni@law.uir.ac.id

Abstract

Throughout 2020, the Kuantan Singingi Police has taken action against 387 illegal gold mining criminals. This illustrates that illegal gold mining in Kuantan Singingi Regency is already alarming, especially for residents who live on the Kuantan Singingi River and do activities on the river flow. It is necessary to increase the capability and knowledge of police resources as well as the armies, especially insight into Indonesian law, which regulates Mining, in order to be able to supervise and overcome mining criminal acts of illegal gold. As the spearhead in law enforcement efforts against activities of illegal gold mining, the National Police and the armies have a very strategic position in main tasks, functions and authorities in carrying out investigations and investigating criminal acts in the mining sector.

Keywords: Environmental Law, Sustainable Development, Illegal Gold Mining, Mineral Law

1. INTRODUCTION

The 1945 Constitution in Article 33 paragraph (3) confirms that land and water and the natural resources contained therein are controlled by The State and used for the greatest possible benefit of the people. Minerals and coal are natural resources contained in the earth which are non-renewable natural resources, so their management needs to be carried out as optimally as possible, efficiently, transparently, sustainably and environmentally sound and just in order to obtain the maximum benefit for the people's prosperity in a sustainable manner¹.

In order to comply with the provisions of Article 33 paragraph (3) of the 1945 Constitution, Law Number 11 of 1967 concerning Basic Mining Provisions has been issued, in which this Law has for four decades since its enactment been able to make an important contribution for national development. In further developments, this law is no longer in accordance with current developments because it is very centralized. In addition, mining development must adapt to changes in the strategic environment, both national and international².

The main challenge faced by mineral and coal mining is the influence of globalization which encourages democratization, regional autonomy, human rights, the environment, technological developments, intellectual property rights and demands for an increased role of the private sector and society. In order to face strategic environmental challenges and respond to a number of these problems, it is necessary to draw up new laws and regulations in the field of mineral and coal mining that can provide a legal basis for steps to reform and realign the management and exploitation of mineral and coal mining activities³.

The relationship between individuals and the environment can be categorized into 4 types, namely: (1) individuals can conflict with their environment; (2) individuals can use their environment; (3) individuals can participate with their environment; and (4) individuals can adapt to their environment⁴.

As for what is meant by the environment according to Law Number 32 of 2009 concerning Environmental Management, is the unity of space with all objects, forces, conditions, and living things, including humans and their behavior that affects the continuity of life and the welfare of humans and other living things. Meanwhile, what is meant by environmental management is an integrated effort to preserve the functions of the environment which includes policies for managing, utilizing, developing, maintaining, restoring, monitoring and controlling the environment. Furthermore, what is meant by preservation of environmental functions is a series of efforts to maintain the continuity of the carrying capacity and capacity of the environment. The carrying capacity of the environment is the ability of the environment to support the life of humans and other living things⁵.

The background of this writing is based on the facts which show Regency of Kuantan Singingi is one of the districts with very rampant illegal gold mining activities, especially those carried out by the community. This is inseparable from various factors that cause illegal gold mining activities, social, legal and economic factors.

2. METHOD

The main problem in this writing is regarding the enforcement of criminal Mineral and Coal Mining Law on illegal gold mining in the Kuantan Singingi Resort area. This type of writing is library research with a clear description of the case of illegal gold mining. This paper aims to describe the efforts to control the illegal gold mining activities of Kuantan Singingi, both those carried out by licensed companies and the community carried out conventionally.

3. RESULT AND DISCUSSION

Law Number 4 Year 2009 concerning Mineral and Coal Mining contains the following main ideas: (1) Minerals and coal are non-renewable resources and are controlled by the state and their development and utilization are carried out by the government and regional governments together with business actors; (2) The government then provides opportunities for business entities with Indonesian legal entities, cooperatives, individuals and local communities to operate minerals and coal based on permits, which are in line with regional autonomy and are granted by the government and/or regional governments in accordance with their respective authorities; (3) In the context of implementing decentralization and regional autonomy, the management of mineral and coal mining is carried out based on the principles of externality, accountability and efficiency involving the government and regional governments; (4) Mining business must provide maximum economic and social benefits for people's welfare; (5) Mining businesses must be able to accelerate regional development and encourage the economic activities of the community/small and medium entrepreneurs as well as encourage the growth of mining supporting industries; (6) In order to create sustainable development, mining

business activities must be carried out by taking into account the principles of the environment, transparency, and community participation⁶.

Currently, many crimes are committed by the white collar crime in the form of criminal behavior such as corruption, collusion and nepotism, illegal logging, illegal mining and illegal fishing, and this is referred to as a black tide, namely the ebb and flow of black world crime that depends on rising waves, crime aka the rising crime wave⁷.

Cases of illegal gold mining are cases that are difficult to resolve because a large budget is needed to enforce the law and a lack of human resources to secure evidence so that it can become a trial fact. The heavy terrain is the area for illegal gold mining, so it requires a large amount of staff stamina to be able to enforce the law⁸.

The first physical impact is damage to the ecosystem on the environment official/licensed mining company, which in fact is burdened with the obligation to implementing environmental management programs; environmental factors life remains a crucial issue that needs intensive monitoring. With the illegal gold mining activities that are almost unsupervised can imagine the damage to the environmental ecosystem that occurs. What's more, illegal gold miners practically do not understand its importance at all environmental management, so that even fertile land turns into a stretch deserts that cannot be planted due to being buried by mining waste and processing⁹.

Second, the pollution of soil and river water, river dredging process commonly used in illegal gold mining activities, has had an impact a very large impact on the quality of river water along the location mining. Where in the process is, gravel and silt are sucked from the river to obtain materials containing gold fragments, by using hazardous chemicals, such as mercury, cyanide, sulfuric acid and arsenic. After the screening process is completed and obtained material containing gold, sludge and the remaining gravel is then released back into the river at a different location. Even though the process of releasing the material uses a pipe, it is still possible pipe leaks persist, resulting in chemicals left over from the filtering process it can be polluted in the soil along the drain pipe or in the water river where the gravel and silt left over from the filter are disposed of. It is certainly very influential on the quality of soil and river water at the disposal site leftover mining material, which apart from causing turbidity, river water has also contaminated with hazardous chemicals (especially mercury) which can be life threatening survival of flora and fauna in water¹⁰.

Third, the mining accidents, viewed from the aspect of Occupational Safety and Health, illegal gold mining activities have caused many victims, both dead and injured. The number of fatalities caused by Illegal mining accidents indicate that mining activities are carried out by conventional society is still very far from these aspects security, safety and health at work. This is then pushed activities of Non-Governmental Organization Riau to ask the local government to find a solution related to this the problem of illegal gold mining which always causes casualties and environmental damage¹¹.

Fourth, the spread of disease, Illegal gold mining activity done conventionally, has given a very big influence on public health level; this is inseparable from the spread of disease, both in terms

of directly or indirectly from illegal gold mining activities. Impact directly from illegal gold mining activities, including the emergence of various skin diseases experienced by miners and the people who live in around mining sites, where actors often use chemicals hazardous materials, such as mercury, cyanide, sulfuric acid and arsenic to separate materials gold with other rock elements, the use of these chemicals is of course very dangerous to the health of miners. Even the most dangerous is skin cancer threat to miners¹².

According to Article 158 Law number 4 of 2009 concerning mineral and coal mining, criminal provisions stipulate that anyone who carries out a mining business without a permit as referred to in Article 37, Article 40 paragraph 93), 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 10,000,000,000 Rupiah (ten billion rupiah).

Based on this article, criminal law assumes that law must imposed according to the guilt of the guilty person, but in essence has to do with the punishment imposed on the guilty person and the guilt of the guilty person. Imposing a penalty on someone who Suspected/indicted for committing a crime is a form of accountability punishment for the actions committed by the suspect¹³.

There is an increase in environmental crimes of illegal gold mining every year so there are allegations that it was caused by the lightness of the crime and the imposition of punishment on the perpetrators of illegal gold mining themselves. For example, in 2020, the Kuantan Singingi Resort Police have taken action against 387 cases of illegal gold mining, but the maximum sentence imposed by the court is 10 months. And this is not optimal because it is contrary to the article in the Mining Law No. 4 of 2009¹⁴.

Geographically, geo-economically and geopolitically, Kuantan Singingi Regency is located on the central route across Sumatra and is in the southern part of Riau province, which has a strategic role as a trade node to connect production areas and ports, especially the Kuala Enok port. Thus, Kuantan Singingi Regency has the opportunity to develop the agricultural sector in general, trade in goods and services, transportation and banking as well as tourism. Kuantan Singingi Regency is a division of Indragiri Hulu district which was formed based on Law no. 53 of 1999, concerning the formation of Pelalawan, Rokan Hulu and Rokan Hulu, Siak, Natuna, Karimun, Kuantan Singingi and Batam City districts¹⁵.

The area of Kuantan Singingi Regency morphologically can be divided into lowlands, undulating hills, high hills and mountains; with variations mostly being undulating hills units which are around 30-150 above sea level. Structurally, the Kuantan Singingi district consists of ascending faults, horizontal faults and folds, composed of sedimentary, metamorphic, volcanic and intrusive rocks as well as surface deposits. Besides that, the Kuantan Singingi Regency has the potential for various mineral resources.

3.1 Illegal Gold Mining

Illegal gold mining is an individual who carries out an illegal gold mining business where they do not have a Mining Business Permit and/or do not have a People's Mining Permit. Mining is

part or all of the stages of activity in the context of research, management and exploitation of minerals or coal which includes general investigation, exploration, feasibility studies, construction, mining, processing and refining, transportation and sales, and post-mining.

Minerals are organic compounds that are formed in nature, which have certain physical and chemical properties as well as regular crystal arrangements or their combinations that form rocks, either in loose or solid form. Meanwhile, what is meant by mineral mining is mining of a collection of minerals in the form of ore or rock other than geothermal, oil and natural gas and ground water.

Based on the results of data collection from the Kuantan Singingi Energy and Mineral Resources Office, Kuantan Singingi has a potential of 12,413.37 hectares of material containing alluvial gold, both on land and hills. Alluvial gold is potential gold in the form of grains that are on the surface and near the surface and have been a place for gold prospecting in the past with simple tools by the community. The potential for this granular gold has the potential to enter the scale of community mining with simple management such as panning¹⁶.

The formation of the People's Mining Area from the Energy Service is one of the efforts to regulate gold mining activities because stopping mining activities is very difficult. Illegal gold mining is mining or quarrying activities carried out by communities or companies without having a permit and not using the principles of good mining (good mining practice). Illegal gold mining, or more precisely, illegal gold mining, is generally carried out by the community with simple, unlicensed, environmentally and safety-conscious equipment, and involves investors and traders. In certain cases, there is also illegal gold mining carried out by companies¹⁷.

3.2 Licenses in Gold Mining Business

Before starting a mining business, mining actors must have a business license. The business license according to Law number 4 of 2009 concerning Mineral and Coal Mining varies greatly. For more details, these permits are described as follows: (1) Mining Business Permit, namely a permit to carry out a mining business; (2) Exploration Mining Business License is a business license granted to carry out the stages of general investigation, exploration and feasibility study activities; (3) Production Mining Business License is a business license granted after the implementation of the exploration mining business permit is completed to carry out the stages of production operation activities; (4) People's Mining Permit, namely a permit to carry out a mining business in a people's mining area with a limited area and investment; (5) Special Mining Business Permit, namely a permit to carry out a mining business in the area of a special mining business permit; (7) Exploration Special Mining Business License is a business license granted to carry out the stages of general investigation, exploration and feasibility study activities in the area of a special mining business permit; (9) Special mining business permit for production operations is a business license granted after the completion of the implementation of a special mining business permit for exploration to carry out the stages of production operation activities in the area of a special mining business permit¹⁸.

Illegal gold mining continues to occur due to various factors: (1) There is a perception that the

people who mine are people who are looking for a living that must be protected, so dealing with the community is an unfavorable issue for the government; (2) The inability of the local government to provide replacement jobs; (3) The mining community is a potential political commodity that supports certain political goals, especially in regional head elections; (4) The lack of harmony between the regional government and the central government in terms of mining permits; (5) There is a very profitable area for elements of the apparatus and officials to get large income in a short time; (6) The regulations governing community mining activities have not been implemented; (7) Sector policies that are partial and not holistic; (8) Provide benefits that are felt by the community and the assumption that the community is also entitled to benefit from natural resources in their territory¹⁹.

In the beginning, gold mining without a permit in most parts of Indonesia was carried out by individuals or groups of people, as an additional business in areas believed to have the potential to contain diamond, gold and tin gas. Increasing economic needs and the results of the mining business which are expected to provide hope for a better life, make illegal gold miners divert this secondary business into the main business.

3.3 Principles in the gold mining business.

Gold mining as part of mineral mining is managed based on: Benefit, fairness and balance, partiality to the interests of the nation, Participation, transparency and accountability, and sustainable and environmentally sound. What is meant by the principle of sustainability and environmental awareness is the principle that in a planned manner integrates economic, environmental and socio-cultural dimensions in the entire mineral and coal mining business to realize present and future prosperity.

Gold is included in metal mineral mining. This is regulated in Government Regulation Number 1 of 2014 concerning the Second Amendment to Government Regulation Number 23 of 20110 concerning Implementation of Mineral and Coal Mining Business Activities.

The Gold Mining Business License consists of two stages, namely the Exploration Mining Business License which includes general investigation, exploration and feasibility studies activities and the Production Operation mining business permit which includes construction, mining, processing and refining activities, as well as transportation and sales. Holders of Exploration Mining Business Permits and Production Operation Mining Business Permit holders may carry out part or all of the activities as described above.

Mining Business License granted by: (1) Regent/mayor if the mining business permit holder is in the same district/city area; (2) Governor if the holder is in cross-regional districts/cities within one province after obtaining a recommendation from the local regent/mayor in accordance with the provisions of laws and regulations; (3) The Minister if the holder of a mining business permit is located across provincial areas after obtaining a recommendation from the local governor and regent/mayor in accordance with the provisions of laws and regulations .

Mining Business Permits are granted to business entities, cooperatives, and individuals.

Business entities in this provision also include state-owned enterprises and regionally-owned enterprises. Mining business permits cannot be used other than as intended in the granting of mining business permits. Community mining activities are grouped into four parts, namely: mineral and metal mining, non-metal mineral mining, rock mining, and coal mining.

The regent/mayor grants people's mining permits, especially to local residents, both individuals and community groups and/or cooperatives to sub-district heads in accordance with statutory provisions. To grant a People's Mining Permit, the applicant must submit an application letter to the regent/mayor.

The People's Mining Permit is granted for a maximum period of five years and can be extended. The area for one people's mining permit granted to: (1) individual at most one hectare; (2) community groups of no more than five hectares; (3) a maximum of ten hectares.

Holders of People's Mining permits are entitled to: (1) receive guidance and supervision in the fields of occupational safety and health, environment, mining techniques, and management from the government and/or regional government; (2) receive capital assistance in accordance with the provisions of laws and regulations.

Holders of People's Mining Permits must: (1) carry out mining activities no later than three months after the people's mining permit is issued; (2) comply with laws and regulations in the field of mining occupational safety and health, environmental management, and comply with applicable standards; (3) managing the environment with local government; (4) pay fixed dues and production dues; (5) submit periodic reports on the implementation of community mining business activities to the issuer of smallholder mining permits .

In addition to the above obligations, the holder of a people's mining permit in carrying out people's mining activities must comply with mining technical provisions. Further provisions regarding mining technical requirements are regulated by government regulations. Meanwhile, further provisions regarding the procedures for granting people's mining permits are regulated by regency/municipality regional regulations.

There are several factors that are likely to influence the growth of illegal gold mining, namely: (1) The business has been running for quite a long time from generation to generation, giving rise to the notion that mining land is an inheritance that does not require a business license; (2) The business capital is relatively small and mining is carried out in a simple/traditional manner without the use of high-tech equipment; (3) The limited expertise of business actors and the narrow scope of work has made this mining business the main choice; (4) Ease of marketing mineral products; (5) Weak understanding of illegal gold mining business actors regarding mining laws/regulations; (6) Business actors think that the procedure for obtaining mining business permits is through bureaucratic channels that are complicated and require a long time, so they tend to incur high costs²⁰.

Illegal gold mining has many disadvantages than the benefits felt by the community. The disadvantages of carrying out the illegal gold mining in detail are: people who mine gold without a permit are that the government does not get income, environmental damage, wastage

of mining resources, high risk of mining accidents, shifting culture of productive society to consumptive society, vulnerability to conflicts between local communities and immigrants and becoming a venue for unscrupulous profit seekers²¹.

The uncontrolled development of illegal gold mining will have negative impacts such as: (1) Environmental damage as a result of weak mastery of mining techniques and mineral processing, limited mastery of mine waste handling methods, weak understanding of reclamation and protection of the environment in mining areas; (2) The practice of dark banks with high interest rates by owners of illegal capital, in cases where illegal gold mining business actors do not have capital and or run out of business capital; (3) The practice of black trade monopoly, as a result of the establishment of a private capital cover system that is directed to the way of collateral/guarantees of mining products as a means of payment for business capital loans; (4) Violation of the official taxation system as a result of tax avoidance on sales of mining products; (5) Neglect of health protection, as a result of lack of knowledge regarding the use of certain substances or chemicals containing poisons/pollutants for the processing of certain minerals and anticipating their possible effects on health; (6) The possibility of security disturbances, as a logical consequence of economic development in illegal gold mining areas²². The local government loses revenue from the mining sector. With its status without a permit, gold mining activities are illegal not subject to the obligation to pay taxes and other levies to the state. This cause's state income, which is sourced from the mining sector, be very limited, given the high potential for tax revenue that is not collected from illegal gold mining²³.

Social conflict due to labor competition Almost in all mining locations illegal gold, social upheaval is an event that often occurs both between official companies with illegal gold mining actors, between local communities with miners or among fellow illegal gold miners or tribes with mining actors in an effort to maintain or protect each other's interests. This is inseparable from the lower class of society, who are generally miners often become victims of the funders or financiers as well as unscrupulous officials, resulting in Community life is very vulnerable to potential social upheavals lead to mine management conflicts²⁴.

Regarding the implementation of mining in Indonesia and its problems, the following facts and solutions emerge: (1) Facts: (a) There is no concept of sustainable natural resource management yet and the government is nervous about strictly enforcing the law against miners and unscrupulous officials/officials; (b) Law no. 4 of 2009 concerning mineral and coal mining treats smallholder mining as a company. Society will not be able to fulfill it so that their activities will remain illegal; (c) Law of trade no. 4 of 2009 concerning mineral and coal mining requires that mining is carried out in smallholder mining areas; (d) There is no guarantee that the people's mining area that is given has the potential for mining goods, so the opportunity for loss will be greater; (2) Solution: (a) The concept of sustainable natural resource management is followed by firm, consistent and non-discriminatory law enforcement; (b) Grant mining business permits to regionally owned enterprises as mining designers; (c) Employ the community with their technology according to a safe and environmentally sound mining design; (d) Grant mining business permits to companies with an agreement to provide a portion to the community in mining activities; (e) Communities can mine in certain areas under

company concessions with special agreements between them²⁵.

The status of an illegal or traditional gold mining business should be upgraded to a small scale mining business with an official license through the following approaches: (1) Rationalization, namely efforts to anticipate the negative impacts of mining with the emergence of black market trade and environmental damage, while from a positive perspective, it is the creation of jobs and an increase in people's income from the sale of mining products; (2) Small-scale mining development regulations, through testing the application of mining regulations in autonomous regions in support of national goals. as a whole the regulation accommodates mining of minerals for commercial and personal purposes, with the aim of anticipating the possibility of utilization of these minerals by land owners; (3) Environmental regulations. applications for small-scale mining businesses must include an environmental protection plan and be approved before the business license is issued, if necessary, include provisions regarding the provision of funds for handling environmental damage and imposing taxes for the rehabilitation of ex-mining areas; (4) Occupational safety and health, through efforts to implement general regulations regarding occupational safety and health care during mining business; (5) Marketing, through efforts to supervise the local government on sales or trade permits for mining products as part of the mining business; (6) Application of sanctions against business license holders or business actors who do not comply with regulations, ranging from cancellation of business licenses to fines/prison penalties; (7) Application of a permit granting system. Based on the strata or depth of mining, arrangement of business permits for groups or associations or partnerships, type or name of minerals, granting of separate and single permits, national system or autonomy; (8) Other provisions consisting of the length of validity of the business license, the size of the mining area and the transfer of ownership²⁶. Gold as part of metal mineral mining commodities, according to the law, can be obtained by individuals or legal entities and even cooperatives in the form of people's mining activities with the pattern of people's mining permits. Mining business permits and special mining business permits expire due to: returned, revoked, and expired²⁷. Holders of mining business permits and special mining business permits can submit mining business permits and special mining business permits with written requirements to the minister, governor or regent/mayor in accordance with their authority and accompanied by clear reasons. What is meant by clear reasons in this provision include not finding prospects technically, economically or environmentally. The return of a mining business license or special mining business permit is declared valid after being approved by the minister, governor, regent/mayor in accordance with their authority and after fulfilling their obligations²⁸. Mining business permits and special mining business permits can be revoked by the minister, governor or regent/mayor in accordance with their authority if: (1) Holders of mining business permits and special mining business permits do not fulfill the obligations stipulated in the mining business permits or special mining business permits as well as statutory regulations; (2) Holders of mining business permits and special mining business permits commit criminal acts as stipulated in the law; (3) Holders of mining business licenses and special mining business licenses are declared bankrupt²⁹.

In the event that the time period specified in the mining business permit and special mining business permit has expired and an application for an increase or extension of the activity stage

is not made or an application is submitted but does not meet the requirements, the mining business permit and special mining business permit shall expire.

3.4 Criminal Provisions related to gold mining.

Any person who conducts a mining business without a mining business license and a special mining business permit 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 subject to punishment with a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 10,000,000,000.00 (ten billion rupiah)³⁰. The criminal provisions above are one of the articles related to gold mining carried out by persons or legal entities without a permit. This needs to be emphasized with other criminal provisions in law no. 4 of 2009 concerning mineral and coal mining, related to the abuse of permits from owners of mining business permits and abuse of authority from officials who grant mining permits³¹. In the event that a crime is committed by a legal entity, in addition to imprisonment and fines against its management, the punishment that can be imposed on said legal entity is in the form of a fine with a weight plus 1/3 (one third) of the maximum provisions for the fine imposed. In addition to fines, legal entities can be subject to additional penalties in the form of: revocation of business license, and revocation of legal entity status³². In addition to the provisions referred to in Article 158, Article 159, Article 160, Article 161 and Article 162, perpetrators who are not criminal can be subject to additional punishment in the form of: (1) confiscation of goods used in committing a crime; (2) deprivation of profits derived from criminal acts; (3) obligation to pay costs incurred as a result of a crime³³.

It is necessary to increase the capability and knowledge of polices resources as well as the armies, especially insight into Indonesian law which regulates Mining in order to be able to supervise and overcome mining criminal acts illegal gold. As the spearhead in law enforcement efforts against activities illegal gold mining, the National Police and the armies have a very strategic position main tasks, functions and authorities in carrying out investigations and investigation of criminal acts in the mining sector. Therefore, for optimizing efforts to tackle illegal gold mining activities by society that has been passed down from generation to generation, needs to be balanced with readiness Polices and armies' resources, whether related to human resources, budget, infrastructure and methods. Where to increase the ability of resources the human resources of the National Police and the armies in carrying out investigations and investigations of cases Illegal gold mining, of course, is not enough just to do various things dissemination of laws and regulations as well as software relating to the handling of cases of illegal gold mining, but necessary continuous capacity building and development efforts. In addition, to support the operational officers in tackling practice illegal gold mining, of course, the availability of budget support and adequate infrastructure to support the process of inquiry and investigation mining crime³⁴.

4. CONCLUSION

Law enforcement against environmental crimes in illegal gold mining, as stipulated in laws and regulations, is that all perpetrators charged and prosecuted in court were found guilty because they were legally and convincingly proven to have committed a crime in gold mining

without a permit. It is just that the sentences handed down by the panel of judges were not deterrents because all the perpetrators were sentenced to light sentences, namely a maximum of 1(one) year in prison, or very far in comparison with the provisions of Article 158 of Law No. 4 of 2009 concerning Mineral and Coal Mining, which is a maximum of 10 (ten) years in prison. The cause of the disparity in enforcing environmental criminal law against gold mining without a permit in court decisions is the subjective element of each judge who hears cases.

References

1. Al Amruzi, Fahmi, Upaya Penegakan Hukum Lingkungan Melalui Penerapan Asas Strict Liability, Jurnal Masalah Hukum, Jilid 49, No. 4, Edisi Oktober 2011, Semarang, FH Undip
2. Bakri S. Peran Pemerintah Daerah Dalam Pengendalian Kerusakan Lingkungan Akibat Pertambangan Emas Ilegal di Sungai Mandor Kabupaten Landak. Jurnal Nestor Magister Hukum 2018;3
3. Danny Z Herman, Pertambangan emas tanoa izin dan kemungkinan alih status menjadi pertambangan skala kecil, 2012, 5
4. Gerungan, Psikologi Sosial, Pt. Resco, Bandung, 1987
5. <http://www.kuansing.go.id/profil/sekilas-kuantan-singingi/gambaran-umum>
6. <http://kuansingterkini.com>
7. Iskandar Zulkarnain, Pertambangan Ilegal di Indonesia dan Permasalahannya, Lembaga Ilmu Pengetahuan Indonesia, Jakarta, 2013, hal. 2-3
8. Law Number 4 of 2009 concerning Mineral and Coal Mining
9. Marhendi T, Rasyid Y, Kresnanto NC. Pemanfaatan Citra Satelit Landsat-7 ETM Untuk Prediksi Kerusakan Morfologi Sungai Batanghari Akibat Penambangan emas Ilegal. Techno (Jurnal Fakultas Teknik, Universitas Muhammadiyah Purwokerto) 2015;16:25–34. <https://doi.org/10.30595/techno.v16i1.63>
10. Mas Achmad Sentosa, Gerakan Pembaharuan Hukum Lingkungan di Indonesia & Perwujudan tata kelola Lingkungan yang baik dalam Negara Demokrasi, Jurnal Hukum Lingkungan, Vol. 1, No. 1, Edisi Januari 2014, Jakarta: Indonesia Center for Environment Law (ICEL)
11. Otto Soemarwoto, Analisa Dampak Lingkungan, 2000, Yogyakarta, Gadjah Mada University Press
12. Sony Keraf, Etika Lingkungan, 2012, Jakarta, Penerbit Buku Kompas
13. Sri Wahyuni, Pertambangan Emas Tana izin di Kuantan Singingi, Jurnal Universitas, 2018, Malaysia
14., The Concept of Sustainable Development in Indonesia's Forest Law (Case Study: Tesso Nilo's Park in Pelalawan Regency, Riau Province, Indonesia), International Journal on Environment and Rural Development, Vol. 1, Issue 2, 2011
15. Ubaidillah AS, Faesal A. Sosialisasi Endapan Emas Di Dusun Brambang, Kecamatan Sekotong, Kabupaten Lombok Barat Sebagai Upaya Penanggulangan Penambangan Emas Tanpa Izin. Sinergi: Jurnal Pengabdian 2020;2:69–71. <https://doi.org/10.31764/sjpu.v2i2.2409>.
16. Weven JHS. Penegakan Hukum Terhadap Kegiatan Pertambangan Emas Ilegal Sebagai Upaya Pengendalian Persoalan Lingkungan Di Kabupaten Kotawaringin Timur. Universitas Atma Jaya Yogyakarta, 2018.