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UNAUTHORIZED (ILLEGAL) GOLD MINING IN TALUK KUANTAN DISTRICT, RIAU, INDONESIA

(*PERLOMBONGAN EMAS HARAM DI DAERAH TALUK KUANTAN, RIAU,
INDONESIA*)

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Abstract

Governments as resource authorities must regulate their use to prevent wastage and optimize revenues from resource exploitation to gain the greatest benefit for the welfare of the people. The regulation on mining is referred to in Article 33 paragraph (3) of the 1945 Constitution and Law no. 4 of 2009 on Mineral and Coal Mining. In this case illegal mining in Riau based on this situation had several cases that happened in the past.

Keywords: *Legal Mining, Gold Mining, Illegal Mining, Mining Law*

Abstrak

Pemerintah sebagai pemegang kewenangan harus membuat aturan untuk mencegah pembuangan polusi dari pertambangan emas yang illegal dan mengupayakan mengoptimalkan keuntungan untuk mendapatkan hasil keuntungan yang sebesar-besarnya bagi kesejahteraan masyarakat. Aturan perundang-undangan tentang pertambangan diatur di Pasal 33 ayat 3 Undang-Undang Dasar 1945 dan pada Undang-Undang Nomor 4 Tahun 2009 tentang Mineral dan Pertambangan Batubara. Dalam hal ini, banyak sekali kasus yang berkenaan dengan pertambangan emas yang illegal ini terjadi.

Kata kunci: *Pertambangan, perambangan emas, perlombongan haram, Undang-undang perlombongan*

INTRODUCTION

The Law of the Republic of Indonesia Number 4 of 2009 concerning Mineral and Coal Mining regulates the relationship between the state and a person or legal entity in the utilization of excavated materials and provides a prohibition as well as a sanction of imprisonment and a fine to a person or legal entity that violates it. Mining business must provide maximum economic and social benefits for the welfare of the people (Departemen Pertambangan, Indonesian Mining Department, 2010).

If mining business activities are carried out without a permit, it can be subject to criminal law as stated in the criminal provisions of article 158 of Law Number 4 of 2009 concerning Mineral and Coal Mining. Every person who conducts a mining business without a Mining Business License as

referred to in article 37, article 40 paragraph 3, article 48, article 67 paragraph 1, article 74 paragraph 1 and paragraph 5, shall be sentenced to a maximum of ten years in prison and a maximum fine of ten billion rupiah (UU 4/2009, Indonesian Mining Law Number 4 year 2009).

MATERIAL AND METHODS

Mining activity activities in Indonesia are now being questioned by various circles, including the Kuantan Singingi Regency which has the potential of natural resources in the form of large enough gold metal minerals with good quality, and its presence is almost spread throughout the districts namely Kuantan Tengah, Benai, Singingi, Singingi Hilir, Kuantan Mudik, Gunung Toar, Hulu Kuantan and Cerenti. This has made local entrepreneurs and communities begin mining in a crowd. The mining activity caused conflict between communities in the area around the mine and gold mining actors who were not concerned with environmental sustainability and carried out without permission (Salim HS, Mining Law in Indonesia, 2003). Although the effort to control and prosecute the mining actors has been carried out, the effort does not have a significant effect on the illegal mining activities.

RESULTS AND DISCUSSION

In addition mining activities are carried out in areas on land using heavy equipment in the form of excavators to explore minerals and sand that contain gold metal in the soil and enter into cavort boxes to filter gold metal mineral granules from sand and stone then using mercury to separate gold metal mineral grains from sand which resulted in ex-mining land becoming dead and damage to the forest in the area around the mine and many gaping holes in the ex-excavation and when it rained the hole was filled by rainwater which is very vulnerable to natural hazards such as floods and landslides. Although the effort to control and prosecute the mining actors has been carried out, the effort does not have a significant effect on the illegal mining activities.

Based on the findings in Kuantan Singingi Police during 2009, there were 4 criminal case files of gold mining without a permit which was carried out by the investigation process and was declared complete by the Public Prosecutor and the suspect was sent along with evidence to the Taluk Kuantan District Procuratorate to be prosecuted in court and The Rengat District Court which convened in Taluk Kuantan examined and tried criminal cases with a regular hearing at the first level court, stating that the defendant had been proven legally and convincingly guilty of committing a gold mining crime without a permit and imprisoned and fined the defendant in accordance with the article 158 of Act Number 4 of 2009 concerning Junto Mineral and Coal Mining Article 55 paragraph 1 to 1 of the Criminal Code in Law Number 8 of 1981.

In 2010, there were 17 unlicensed mining case files that were investigated by the Kuantan Singingi Resort Police Investigator. There were 2 case files about alleged criminal acts of manganese exploration mining were allegedly carried out without permission in the area of the manganese exploration exploration mining permit, which is currently in the process of being investigated to complete the Prosecutor's instructions. While 15 cases about illegal gold mining practices committed by the perpetrators of mining in the Kuantan river and in the hilly / land area in the area of Kuantan Singingi Regency by sucking / digging the minerals of sand and stone containing gold metal in the Kuantan river in the soil and put the excavated material into a slude box or box cavort then use mercury to separate gold metal grains from sand and water.

Of the 15 case files, 13 case files have been declared complete by the Public Prosecutor then the investigator sends the suspect and evidence to the Taluk Kuantan District Attorney to be prosecuted in court while 2 more cases are still under investigation to complete the prosecutor's instructions in order improvement of the investigation of the case file. Of the 13 cases, 7 case files were submitted by the Investigator to the Taluk Kuantan District Attorney to be prosecuted in a court hearing and the Rengat District Court convening in Taluk Kuantan examined and tried and claimed the defendant had been proven legally and convincingly guilty of gold mining without

permission and impose imprisonment and fines on the defendant in accordance with Article 158 of Law Number 4 of 2009 concerning Mineral and Coal Mining Article 55 paragraph 1 of the Criminal Code, while 6 case files are still under prosecution of the public prosecutor (Department of Mining, 2010).

In 2010 almost all court decisions of perpetrators of gold mining without permission were sentenced to 1 year and 8 months as well as criminal penalties for each defendant of ten million rupiah.

In order to support sustainable national development, the objectives of managing minerals and coal include:

- a. Ensuring the effectiveness of the implementation and control of mining business activities in an efficient, effective and competitive manner.
- b. Ensuring the benefits of mineral and coal mining in a sustainable and environmentally sound manner
- c. Ensure the availability of minerals and coal as raw materials and / or as energy sources for domestic needs
- d. Support and develop national capacity to be more able to compete at the national, regional and international levels
- e. Increase the income of local, regional and state communities and create jobs for the greatest possible welfare of the people.
- f. Ensuring legal certainty in the operation of mineral and coal mining business activities.

Law Number 4 of 2009 concerning Mineral and Coal Mining confirms that Mineral Mining is mineral mining in the form of ore or rock, outside the earth market, oil and gas and ground water, and mining is a mining business activity to produce associated minerals and minerals.

In Law Number 4 of 2009 concerning Mineral and Coal Mining provides provisions / rules that regulate the relationship between the state and a person or legal entity in the utilization of minerals, as follows:

1. In Article 36 of Law number 4 of 2009 states: business license

Mining consists of two stages:

1. Exploration mining business licenses include general investigation activities, exploration and feasibility study.
 2. Production operation permits include construction, mining, processing and purification and transportation and sales.
2. In Article 40 paragraph 3 of Law Number 4 of 2009 states: Holder mining business license that intends to cultivate other minerals in its mining business license area, must submit a new mining business permit to the Minister, Governor and Regent / Mayor in accordance with its authority.
 3. In Article 48 of Law Number 4 of 2009: Mining business license Production Operations are given by the Regent / Mayor, Governor and Minister.
 4. In Article 67 paragraph 1 of Law Number 4 of 2009 states Regents / Mayors provide People's Mining Permits especially to local residents, both individuals and community groups and / or cooperatives.
 5. In Article 74 paragraph 1 paragraph 5 of Law No. 4 of 2009 states Permit Special Mining Businesses are given by the Minister with due regard to regional interests. Special Mining Business Permit holders are given 1 type of metal mineral or coal in 1 special mining business license area.

Based on data obtained from Criminal Procedure Law No. 8 of 1981 that have mining business licenses within the Kuantan Singingi Regency are listed as follows:

1. Gold Mining Production Operations as many as 4 owners / companies.
2. Solid Bitumen Mining Exploration of 2 company owners
3. Production operations Manganese mining as many as 5 company owners
4. Existing coal mining as many as 9 company owners
5. Group C materials (sand and stone) as many as 12 company owners.

Kuantan Singingi Regency holds maximum untapped wealth, namely gold content. From the data of the potential gold content that was recorded by the Mining Service of Kuantan Singingi district, the potential for gold content is estimated at around 64.2 tons with details of the location as follows: Logas Village, Singingi District, 2.4 tons, Sentajo Village 2.8 tons Kuantan District Tengah, Bawang River is 12 tons in Singingi sub-district, Sungai Jake in Kuantan Tengah District is 18 tons, Sungai Bulus is 13 tons, Bukit Batabuh in Kuantan Mudik District is 10 tons. Ironically, although the potential of gold mining in this area is very large, until now this potential has not been managed properly. This potential then motivates the community to carry out gold mining activities without permission, as a result of which has a negative impact on the local environment. Although efforts have been made to approach and control the Kuantan Singingi district government and resort police, the activities of gold mining without the permit continue.

Based on the findings, unlicensed gold mining in the area of Kuantan Singingi Regency is not only a mining business activity, some residents traditionally use hoes and crowbars to dig holes and then lift them with baskets and then separate gold metal mineral ores with a miner or by using just a panning tool in taking sand in the river then panning / separating gold metal mineral ore from sand, but the gold mining business without permission is done mechanically by using rafts and machines to suck the minerals of sand and stone containing the existing gold metal in the river, then put the mineral material into a slude box to filter gold metal mineral granules from sand and stone and then use mercury to separate gold grains from sand and water, which causes the river water to become cloudy and polluted disease outbreaks for people in the mine area.

Gold mining without the permit does not take into account environmental sustainability and prioritizes personal or group interests and does not have a mining business license from the Kuantan Singingi Regent. Mining activities without permits have a negative impact which results in the destruction of forests that are in the area of the mine, river contamination, disease contractions for people living in the area around the mine and conflict between communities around the mine and loss of state income or local revenue.

According to Kusnadi, the perpetrator of gold mining without permission, that gold mining activity carried out in the river without permission, use rafts and machines to suck up sand and use mercury to separate gold seeds from sand and water. On average one day can produce at least 1 ounce of gold and can reach 3 kilograms per month (Informan).

The same thing was also conveyed by Wahyudi, the gold mining agent without permission, that the gold mining activities he did in Petapahan without permission from the authorized official. Cases of gold mining without permits handled / processed by police in the form of (Information from Mining Department, 2010):

1. Mining carried out without a mining business permit document from the government in accordance with the provisions of the legislation
2. Mining outside the concession / area of the mining business license
3. Mining other minerals outside the mining business permit granted for one type of mineral.
4. Not yet have the completeness of the permit but has already carried out mining activities.
5. Mining carried out in prohibited places (Informan):

- a. By using excavator heavy equipment which resulted in ex-mining land becoming dead and damaged forests and many gaping holes were found which were very susceptible to natural disasters such as floods and landslides.
- b. By using rafts and machines to suck sand from the river which results in turbid and polluted river water as well as contracting diseases for the people in the mine's circumference
- c. Use mercury to separate gold metal seeds / minerals from sand and water.

In its development, gold mining without permission always follows the times. This can be seen from the form of illegal mining of gold metal minerals which have the characteristics grouped as follows (Information from Police):

1. Viewed from business actors, consisting of:
 - a. Local people are people around the mining location who are working in the mining sector.
 - b. Newcomers are outsiders from the mining location who try to make a living through mining.
 - c. Local entrepreneurs are entrepreneurs who have capital that live around the location of the miners.
 - d. Newcomers are outside entrepreneurs from the mining area who come deliberately to mine.
 - e. Investors are capital owners who are working in the mining sector.
 - f. Person of the apparatus, namely a person or person from the apparatus and the government who illegally supports the practice of mining without permission.
2. Judging from the status of its business activities carried out on:
 - a. Own land
 - b. State-owned land such as protected forests, nature reserves and others
 - c. Riverside

3. Judging from the commodity / quarrying material, consisting of Gold (Group A).

As for the factors that cause illegal mining are:

1. Law: Public ignorance of the laws and regulations that apply in the mining sector.
2. Economy
 - a. Limited employment opportunities and business opportunities in accordance with the level of expertise / skills of the community below.
 - b. Poverty in various ways, economically poor, knowledge and skills.

Factors affecting illegal mining are:

1. Main factors:
 - a. The miners do not care about licensing regulations / provisions.
 - b. Gold metal mineral deposits found on community land and in rivers can be found easily.
 - c. Attractive gold metal prices and easy marketing.
 - d. The economy of the community around the mine site is generally poor.
2. Supporting Factors:
 - a. There is support from strong investors.
 - b. Anticipatory policies from the government have not been effective.
3. Driving factor:
 - a. The fee sharing system is very profitable.

- b. Misuse of permits granted for 1 type of mineral is used to cultivate other minerals.
- c. The economic crisis caused limited employment.
- d. Mining equipment is widely available and inexpensive at rentals such as excavators as well
- e. As mining equipment in rivers such as machines, rafts, slide boxes and cavort boxes are easily made.
- f. There is a perception that illegal mining activities are very helpful in alleviating poverty.

The perpetrators of gold mining without most permits are not required to be maximized with the following considerations:

- a. Most of these perpetrators were told to do or participate in the crime of gold mining without permission.
- b. The perpetrators of gold mining without permission do not know the laws and regulations that apply in the mining sector.
- c. The defendant admitted frankly his actions.
- d. The defendant was polite during the course of the trial.
- e. The defendant admitted guilt, regret and promised not to repeat his actions later on.

Judges' consideration of imposing a criminal sentence on the perpetrators of gold mining without permission, among others:

- a. Most of these perpetrators are told to do or participate in the crime of gold mining without permission and do not know the laws and regulations that apply in the mining sector.
- b. Judging from the status and education of the convict.

CONCLUSION

Unlicensed gold mining activities in the area of Kuantan Singingi Regency are not only some residents traditionally separating gold metal mineral grains contained in the river but this activity is carried out mechanically by using rafts and other mining machinery and equipment to suck sand minerals and stones that contain gold metal and put mining material into the slude box to filter further using mercury to separate gold metal grains from sand and water which results in turbid and polluted river water. In addition, the activities of unlicensed gold mining are carried out on land mechanically by using heavy equipment in the form of excavators to dig and insert mining material into the cavort box to filter further using mercury to separate gold metal grains which result in damage to the forest and the large number of holes very vulnerable to the dangers of floods and landslides.

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