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Prevention And Law Enforcement Efforts Against The Crime Of Gold Mining Without A Permit (PETI) In The Jurisdiction Of The Merangin Resort Police

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Abstract. Illegal mining in Indonesia isn't it things we just heard, In fact, illegal mining has become widespread in almost every region potentially rich in minerals. Illegal mining is the most common found is mining gold. Mining gold illegal or often in short for PETI (Unlicensed Gold Mining) is a mine amount pollution material the mine most tall. In Indonesia, gold mining without a permit is considered an unlawful activity, especially because miners do not have a mining business permit as a business entity. They do not pay taxes and royalties which are sources of state income from mining activities. Their activities also often cause social unrest and environmental damage. One that has gold mines is Jambi Province, precisely in the Merangin Regency area. Gold mines in this district are not only found on land but also in river basins (DAS). Merangin Police have carried out many prevention and law enforcement efforts to deal with mining activities without permits.

Keywords : Police, Crime of Gold Mining Without a License, Illegal Mining

1. PENDAHULUAN

Mining is series activity in frame effort search, excavation, processing, utilization And sale material excavation (minerals, coal, geothermal and oil and gas). Legally there are two types of mining type that is official mining and non-mining official. Mining official is mining Which own permission And own place special mining and taking into account its impact on society whereas mining Which No official is mining Which No has permission from the government and does not have a special place and no care impact to public ¹.

Neither is illegal mining in Indonesia things we just heard, In fact, illegal mining has become widespread in almost every region potentially rich in minerals. Illegal mining is the most common found is mining gold. Mining gold illegal or often in short for PETI (Unlicensed Gold Mining) is a mine amount pollution material the mine most tall . In Indonesia, small-scale community mining or gold mining Without a Permit (PETI) is considered an activity that is against the law, especially because the miners do not have a Mining Business Permit as like a

¹ Nineek Suparmi, *Preservation Management And Enforcement Law Environment*, RayGraphics, Jakarta, 1994, p. 65

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business entity. They don't pay taxes and royalties is source income country from activity mining. Activity they Also often cause anxiety social and environmental damage.²

Activity mining people including in mining scale small, because the mining scale is limited, but that doesn't mean it can be mined without permission from the government. Even though mining is done traditionally, but the impact can cause environmental losses if the area mining is not restricted. Activity mining without permission has a negative impact on ecological and socio-economic aspects to local communities. Mining activities without permits are generally not permitted friendly environment, Because only chase interest in time short just like getting money. This activity is caused by a lack of awareness For still conserve environment. At this time gold mining This is no longer carried out traditionally, in fact it uses tools in the form of a machine (known as *dompeng* refers to one of the brands machines) and the use of chemicals (mercury) to separate gold from mineral other Which potential damage environment. Change pattern mining Which No Again guard sustainability environment the is Wrong One impact from CHEST Which at a time detrimental to the state both from the tax sector and the value of the gold mineral. Impact environment Which consequences occur mining gold in river is the occurrence of water pollution, land pollution, air pollution, the impacts very Serious for health even Can cause death. The Merangin Regency Regional Government has made efforts both physically and through socialization, namely controlling activities together with law enforcement officials and local community leaders and have also carry out outreach to the community around the location, whether carried out by Environmental Service Live or police about dangers from illegal mining activities.³

Humans in living their daily lives are often faced with urgent needs, self-satisfaction needs, and sometimes even because of the desire or urge to maintain one's status. The needs of every human being can generally be met, although not completely. Needs that are urgent to fulfill and must be met immediately are often implemented without careful thought, which can be detrimental to the environment or other humans.⁴ Environmental damage and/or pollution caused by human actions actually robs, denies, or eliminates the rights of future generations to enjoy a clean and healthy environment, as well as destroying ecological functions and ecosystem health in many ways. This is like what happened in the Merangin Regency area where a lot of gold mining was carried out without permits. This activity had a significant

²Hanar 24 groho, *Covid-19 Pandemic: Revisiting Policies Regarding PETI (Mining Without Permit) in Indonesia*, *The Indonesian Journal of Development Planning*, Vol 4, No. 2, 2020, p. 78.

³RM. Gatot P Soemartono, *Law Environment Indonesia*, Publisher Ray Graphics, Jakarta, 2002, p. 65

⁴Helmi, *Environmental Licensing Law*, Sinar Graphics, Jakarta, 2012, p. 1.

impact on the lives and survival of the people of Merangin Regency . The positive impact felt is that economic growth has begun to stabilize since the existence of this unlicensed gold mining.⁵

On the other hand, the negative impact felt is the destruction of the environment, especially the water ecosystem which has become polluted due to gold mining without permits, rivers which cannot be used for daily needs because they are unhealthy and contain other chemicals as well as changes in the color of the river which are not acceptable. clear again or has changed color like milk chocolate due to this unlicensed gold mining activity. This incident proves that there is a need for law enforcement regarding gold mining without a permit, which should be a very important thing to pay more attention to, considering that there are two important aspects that must be taken into account, namely the economic aspect and the environmental aspect.⁶

2. RESEARCH METHODS

By general method study interpreted as method scientific For get data with objective And utility certain . Method scientific means activity study That based on characteristic features science , that is rational , empirical , and systematic ⁷. The type of research used is empirical juridical, that is, in searching for the necessary data, you do not only stick to juridical aspects, but also stick to research results and facts in the field. ³⁵ The juridical approach is carried out by examining legal aspects in the form of regulations, legislation and other legal regulations related to research. Meanwhile, the empirical approach (law as social, cultural or ¹²das sein reality), because in this research primary data obtained from the field is used.⁸

3. RESULTS AND DISCUSSION

3.1 Efforts to Prevent the Crime ² of Gold Mining Without a Permit (Peti) in the Merangin Legal Area

The community's dependence on the results of gold mining without a permit to meet their daily living needs is a reason to continue doing mining work and apart from that, the

¹³
⁵I Ketut Adi Purnama, *Transparency of Police Investigators in the Criminal Justice System in Indonesia* , PT Refika Aditama, Bandung, 2018, p. 70

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⁶John Thamrun, *Prajudicial Disputes: Postponement of Investigation of Criminal Cases Related to Civil Cases* a, Sinar Graha, Jakarta, 2016, p. 18.

⁷Sugiyono, *Method study education approach quantitative, qualitative And R&D* ,PT Alfabeta, Bandung, 2000, p. 3

⁸Bahder John Nasution, *Method Study Knowledge Law*, Mandar Proceed, Bandung, 2008, p.86

income they earn is quite large, so it is quite difficult for miners to stop this activity⁹. In fact, if you look at the capital required for PETI activities, it certainly requires quite large funds and not from poor people. But there are financiers who facilitate residents to carry out gold mining activities without this permit. An investor or capital owner is a person or group of people who have money to finance gold mining activities without a permit (PETI). The greed of entrepreneurs in making profits from illegal activities, namely gold mining without permits, by carrying out various methods for their business interests. One of the ways that investors use is to use the local community as workers and provide capital and use respected community leaders as extensions of the entrepreneur or capital owner. that: "Sometimes the mining products are stored or sold to the burner, even though the burner is already there. And there are also mining results that are collected in a certain amount, then handed over to the investor through the investor's agents¹⁰.

Economic factors are one of the reasons why gold miners without permits continue to carry out their activities. Even though the impact is quite large, the material obtained is only temporary. For this reason, there needs to be the best solution from the government so that PETI activities can be controlled. The regional government's attention to providing other sources of income for gold miners who can support their families is one of the solutions that is really needed for gold miners, so that the economic reasons that have been used as an excuse can be overcome. No exception activity mining gold without permits are also widespread occurred in the district area Angry, officers Merangin Resort Police succeeded in carrying out legal enforcement in cases of mining crimes without permits or illegal mining.¹¹

Apart from triggering environmental damage, this activity can also trigger horizontal conflicts in society. Apart from that, PETI also ignores its obligations, both towards the State and towards the surrounding community. "Because they do not have a permit, of course they will ignore the obligations that are the responsibility of miners as they should be. They are not subject to the obligations of holders of Mining Business Permits (IUP), Special Mining Business Permits (IUPK) which are for preparing community development and empowerment programs, including the allocation of funds a special Government to practice mining illegal This for no other reason Because many impact negative from PETI operations, among others related with life social, economic and environmental.¹²

⁹ Kerinci-Bangko Community Figures,

¹⁰ Source : Police Moaning

¹¹Source: Merangin Police

¹²Ecosolum Journal Volume 10, Number 2, 2021, ISSN ONLINE: 2654-430X, ISSN: 2252-7923

Impact social PETI activities , among other things, hinder development area Because No according to the RT RW (Regional Spatial Planning), you can trigger happen conflict social in society , giving rise to condition vulnerable and disturbed security in Society. PETI's activities also have an impact for economy area Because potential lower reception tax . From the side environment , PETI will give rise to damage environment alive , destructive forest if are inside area forest , can give rise to disaster environment , disturbing productivity land agriculture and plantations , as well can give rise to river water turbidity and water pollution . In general land former PETI with method mine open already No operate leaving voids and puddles of water so land the No can Again utilized with Good¹³

A policy to control gold mining activities without permits is very necessary. Therefore The duties and roles ³⁰carried out by the Merangin Resort Police in the matter of gold mining without permits are strengthened through various efforts, including through pre-emptive efforts and preventive ¹⁸efforts . Pre-emptive efforts or (moral) is the initial effort made by the police to prevent criminal acts from occurring." In this effort, what is more emphasized is instilling values or norms in a person. Even though there is an opportunity to commit a violation/crime but there is no intention to do so, a crime will not occur. So, in pre-emptive efforts the intention factor is lost even though there is an opportunity . Then preventive efforts namely efforts to prevent a criminal act before the criminal act is committed or occurs. Effort or the coping strategy in this way does not use criminal means, but seeks to utilize the potential in society in an integrated manner as carried out by the Merangin Resort Police as follows ¹⁴:

3.2 Pre-emptive Efforts

- a. Providing appeals to the community by showing the Chief of Police's announcement containing prohibitions and threats that will be given to people who carry out gold mining without a permit and calling on the public to report any unauthorized gold mining in their area. ³³
- b. ³³Conduct outreach to the public about the dangers and impacts that will be felt due to gold mining without a permit, apart from the impact on the environment there is also the risk of work accidents when carrying out gold mining activities without a permit.
- c. Conduct non-formal discussions with Community representatives with the aim of accepting all aspirations expressed by the Community.

¹³e-Journal of Resource and Environmental Economics Vol. 11. No.1, January – April 2022

¹⁴ Source: Merangin Police

- d. Conducting environmental seminars in various places, in this case the police collaborate with the District Mining Service. Merangin , District Environmental Service. Moaning

3.3 Preventive Efforts

- a. Create an integrated TNI-Polri pospam and also the Regency Regional Government Merangin is the entry point for heavy equipment and fuel transport to the forest for PETI activities
- b. Collaborating with the Merangin Regency Regional Government by forming a PETI control patrol team led by the Merangin Police Chief by involving all existing elements starting from law enforcement officials and related agencies.
- c. Look for information about the existence of places where gold mining activities are usually carried out without a permit, look for information about places where gold is burned from gold mining activities without a permit, and find out the places where they usually buy the mercury (mercury) used when carrying out gold mining work without a permit.
- d. Carrying out raids along rivers or places that are used as gold mining locations without permits and to places that usually receive gold purchases from miners.

However, often the efforts made by the police are met with resistance by the miners, such as arguments with the police ¹⁵. So it seems that the control activity is only temporary and seems to only scare the mining community without any continuation, planning and targets from the team that was formed. Indications of weak implementation of policies carried out by local governments together with law enforcement officials have caused gold mining activities to become increasingly widespread and continue to this day. For this reason, law enforcement is needed which is part of the existing criminal law. In general, criminal law functions to regulate community life ²⁸ in order to create and maintain public order. In order not to cause harm and disturb the interests of other people in trying to fulfill their daily needs, the law provides rules that limit human actions, so that they cannot do whatever they want, such as mining for gold without permission.¹⁶

¹⁵ Source : Police Moaning

¹⁶Yasmirah Mandasari Saragih, *Introduction to Criminal Law, Criminal Law Transition in Indonesia*, CV Publisher. Tunga Esti, Medan, 2023, p. 15

3.4 Merangin Resort Police Legal Area

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In its function to overcome crime, criminal law is part of criminal politics, in addition to non-penal efforts to overcome or prevent it. Considering this function, the formation of criminal law will not be separated from reviewing the effectiveness of law enforcement. Based on the function of criminal law to overcome mining problems in Indonesia, law enforcement efforts are carried out by the Government to overcome mining problems in Indonesia, both preventively and repressively, which cannot be separated from the terminology of the legal system to understand the effectiveness of the functioning of the law in changing human behavior so that they have legal awareness. in order to protect and preserve environmental functions. The entire system (legislative rules) that regulates how criminal law is enforced or operationalized concretely so that someone is subject to criminal (legal) sanctions. In this sense, the criminal system is identical to the criminal law enforcement system which consists of the Material/Substantive Criminal Law sub-system, the Formal Criminal Law sub-system and the Criminal Enforcement Law sub-system.¹⁷

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Law Enforcement is the process of making efforts to enforce or function real legal norms as guidelines for behavior in traffic or legal relations in social and state life¹⁸. In a broader sense, law enforcement activities include all activities intended so that the law as a set of normative rules that regulate and bind legal subjects in all aspects of social and state life are truly obeyed seriously and carried out as they should.¹⁹

Merangin Resort Police against the perpetrators of illegal gold mining is generally the same procedure as handling other general crimes. The Merangin Resort Police have taken preventive and repressive measures to maintain community security and peace and preserve the environment as a result of illegal gold mining. The act of carrying out gold mining without a permit is a form of criminal act that violates the law and must be held accountable. Because the criminal act of mining without a permit is included in the terms of a criminal act, namely²⁰.

3.4.1 There are human actions

3.4.2 Human actions are contrary to the law

3.4.3 The act is prohibited by law and threatened with criminal charges

¹⁷ Yasmirah Mandasari Saragih, *Offenses in the Criminal Code*, CV. Haritsa, Deli Serdang, 2020, p. 22.

¹⁸ Lili Rasjidi, *Basics of Philosophy and Legal Theory*, Citra Aditya Bakti, Bandung, 2001, p.58.

¹⁹ Yasmirah Mandasari Saragih, *Journal of Responsive Law FH UNPAB, RESEARCH* 202110040013, JURNAL-FH-UNPAB, OKTOBER-2017.PDF (pancabudi.ac.id), 2017.

²⁰ M. Yahya Harahap, *Discussion of Problems and Application of the Criminal Code for Investigation and Prosecution*, Sinar Graphics, Jakarta, 2007, p. 101.

3.4.4 The act is done by a person who can be held accountable

3.4.5 The act must be accountable to the maker

Thus, law enforcement against gold mining actors must be seriously considered, to anticipate negative impacts on society and to make legal objectives a reality. If preemptive and preventive efforts do not produce results, the follow-up action for this illegal gold mining activity without a permit is to carry out law enforcement. Next, the provisions for criminal punishment for perpetrators of illegal mining are in accordance with the elements in Article 89 paragraph (1) of Republic of Indonesia Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction which contains : Article 89

3.5 An individual who intentionally:

- a. carry out mining activities in forest areas without the Minister's permission as intended in Article 17 paragraph (1) letter b; and/or
- b. carrying heavy equipment and/or other tools which are commonly or reasonably suspected to be used to carry out mining activities and/or transport mining products in forest areas without the Minister's permission as intended in Article 17 paragraph (1) letter a shall be punished with a criminal offense. imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 1,500,000,000.00 (one billion five hundred million rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah).

3.6 Corporations that:

- a. carry out mining activities in forest areas without the Minister's permission as intended in Article 17 paragraph (1) letter b; and/or
- b. carrying heavy equipment and/or other tools which are commonly or reasonably suspected to be used to carry out mining activities and/or transport mining products in forest areas without the Minister's permission as intended in Article 17 paragraph (1) letter a shall be punished with a criminal offense. imprisonment for a minimum of 8 (eight) years and a maximum of 20 (twenty) years and a fine of at least Rp. 20,000,000,000.00 (twenty billion rupiah) and a maximum of Rp. 50,000,000,000.00 (fifty billion rupiah).).

The National Police of the Republic of Indonesia is based on its function For realize security domestic which includes maintained security and order society , order and uprightness law , its implementation protection , protection, and service to the Community, as well built public peace . Role of the Police in the enforcement process law started from inquiry, investigation, arrest, detention, search, submission of files and trial, all of which are contained

in Chapter V of the Criminal Procedure Code (KUHP)²¹. Then, if in the judicial process it is proven guilty that the perpetrator of illegal mining can also be subject to a crime in accordance with the provisions of Article 158 of Law Number. 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining states that: "Every person who carries out mining without a permit as intended in Article 35 shall be punished with imprisonment for a maximum of 5 (five) years and a fine of a maximum of IDR 100,000,000,000.00 (one hundred billion rupiah)".

Apart from that, all parties involved, both workers and investors, are subject to penalties and fines, which will have a deterrent effect. Taking legal action against parties who have been proven to be involved in the criminal act of carrying out gold mining without a permit, namely finding out who is the financier because the existence of financiers who collaborate with the mining community makes PETI activities increasingly widespread even though there is activity from the police by conducting raids and destruction of work equipment, but PETI's activities never seem to stop and there is a lack of capital. To overcome the problem of gold mining without permits in the Merangin jurisdiction, researchers also hope that there will be synergy between the Merangin Regency Government itself and the Kerinci Regency Government. Researchers hope that there will be a joint solution between the Kerinci Police and the Merangin Police because almost all of the Peti players in the Merangin area are people who live in Kerinci. Provide solutions to people who don't have jobs so they don't make repeated mistakes by giving new job opportunities to those who previously worked as illegal miners. Then as a preemptive effort and for further preventive efforts, an integrated Pam Task Force post consisting of the TNI-Polri and also the Regional Government, namely Satpol PP, should be built. And for repressive measures to frequently carry out the Ops Peti Task Force in areas where gold mining is rampant without permits at certain times with a combination of the National Police and TNKS officers.

The strategy implemented by the Merangin Resort Police in effort prevention and enforcement law to follow criminal Mining Gold Without Permit (Crate) in the Merangin Resort Police Jurisdiction It can be said that it has been successful in preventing gold mining activities without permits, but there are still weaknesses in the strategy carried out, such as the actions of individuals who try to carry out gold mining activities without permits again due to the lack of legal awareness in the community, with good legal awareness by law enforcement

²¹Muhammad Amdi Karna, Yasminah Mandasari Saragih, Ismaidar, T. Riza Zarzani, <http://jiip.stkipyapisdampu.ac.id/JIIP> (Scientific Journal of Educational Sciences)(eISSN: 2614-8854)Volume 7, Number 1, January 2024 (908-920)

officials and the public, environmental awareness will also be created considering that gold is a natural resource that cannot be renewed and must be managed well in order to achieve the expected goal, namely sustainable development. Apart from that, the lack of role of community leaders, traditional leaders, and village officials to prohibit people from carrying out gold mining activities without permits is also a weakness in prevention and enforcement efforts. law to follow criminal Mining Gold Without Permit (Crate) in the Merangin Region .

4. CONCLUSION

4.1 The preventive efforts carried out by the Police in preventing the Crime of Unlicensed Gold Mining (PETI) in the Merangin Legal Area are as follows: a) Providing appeals to public with show notice Police Chief who contains about prohibitions and threats criminal to follow criminal mining gold without permission . b) Doing socialization to public about the dangers and impacts that will occur felt consequence mining gold without permission c) Conduct environmental seminars life d) Activities enforcement law with capture and process punish the perpetrators of PETI e) Do cooperation with Government Regency Moaning with form team controlling PETI f) Searching information about existence usual places done For do activity mining gold without permission . g) Doing raids along Genre river or places made location mining gold without permission and place sale gold from the miners .

4.2 Law Enforcement Against the Crime of Gold Mining Without a License in the Merangin Legal Area as intended in the provisions of Article 89 paragraph (1) of Republic of Indonesia Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction against individuals who deliberately carry out mining activities in forest areas without permission and carry heavy equipment and/or other tools. which is commonly or reasonably suspected to be used to carry out mining activities and/or transport mining products in forest areas without permission shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 1. 500,000,000.00 (one billion five hundred million rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah). Then based on the provisions of Law Number. 3 of 2020 concerning Mineral and Coal Mining. In this law, the crime of mining without a permit/illegal mining as regulated in Article 158, those who carry out mining without a permit as intended in Article 35 are punished with a maximum imprisonment of 5 (five) years and a maximum fine of IDR 100,000,000,000.00 (one hundred billion rupiah).

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