JLPH:
Journal of Law, Politic and Humanities
E-ISSN: 2962-2816
P-ISSN: 2747-1985
https://dinastires.org/JLPH dinasti.info@gmail.com +62 811 7404 455
DINASTI RESEARCH
DOI: https://doi.org/10.38035/jlph.v6i5

Mining Crimes in Indonesia: Modus Operandi and Countermeasures

Hadi Supriyanto[1*], Dian Rahadian[2], Vegitya Ramadhani Putri[3], Muh. Akbar[4], Muhammad Nur[5]
[1] Universitas Muhammadiyah Buton, Indonesia
[2] Universitas Cenderawasih, Indonesia
[3] Universitas Sriwijaya, Indonesia
[4] Universitas Islam Negeri Palopo, Indonesia
[5] Cakrawala Hukum Nusantara, Indonesia

[*]Corresponding Author: hadijembat@gmail.com

Abstract: The development of crime in the mining sector shows an increasingly complex pattern along with the increasing exploitation of mineral and coal resources in Indonesia. Mining crimes are committed through various modus operandi, such as misuse of mining business permits, document falsification, the use of corporations as a means of crime, mining without permits, and money laundering from illegal mining. This phenomenon causes state losses, environmental damage, and demonstrates weak law enforcement in the mining sector. This study aims to analyze the modus operandi of mining crimes, examine the criminal liability of perpetrators, and formulate criminal law policies to address mining crimes in Indonesia. This research is a normative legal study with a statutory, conceptual, and case-based approach. Legal materials are analyzed qualitatively using a prescriptive method. The results show that mining crimes develop systematically by exploiting regulatory gaps, weak supervision, and limited coordination among law enforcement officials. Furthermore, the regulation of corporate criminal liability in the mining sector is still suboptimal. Therefore, strengthening criminal law policies is necessary through regulatory reformulation, optimizing integrated law enforcement, and strengthening oversight of mining permits.

Keywords: Mining Crimes, Modus Operandi, Corporate Criminal Liability, Illegal Mining.

INTRODUCTION

The mining sector is a strategic sector in national economic development due to its significant contribution to state revenues, energy supply, and the development of natural resource-based industries. However, the high economic value of mineral and coal resources also encourages the development of various forms of crime in the mining sector. Mining crime in Indonesia is no longer carried out conventionally, but rather develops through increasingly complex, systematic, and organized patterns. This situation indicates that mining crime has transformed into a modern economic crime that exploits regulatory weaknesses, weak administrative oversight, and limited law enforcement. Criminal law policy must be able to adapt to the development of modern crime, including corporate crime and organized economic crime.[1]

Normatively, regulations regarding mineral and coal mining in Indonesia are stipulated in Law Number 3 of 2020, an amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining. This law stipulates various prohibitions and criminal penalties for unlicensed mining activities, misuse of mining business permits, and illegal transportation and sale of mining products. However, in practice, various legal loopholes remain that perpetrators exploit to commit mining crimes covertly.

One of the fundamental problems in the mining legal regime is the weak regulation of corporate oversight and criminal accountability. In many cases, illegal mining activities are carried out using companies as a means to disguise the main perpetrators and the flow of criminal profits. Furthermore, the formulation of criminal liability in the Mineral and Coal Mining Law still tends to be oriented towards individual perpetrators, making it difficult for law enforcement officials to prosecute the intellectual actors and corporations that derive the greatest profits from illegal mining activities. Modern economic crime has resulted in corporations no longer being viewed solely as civil legal entities but also as subjects of criminal law that can be held accountable for crimes committed within the scope of their business activities.[2]

Furthermore, the shift in mining licensing authority from regional governments to the central government following the amendment to the Mineral and Coal Mining Law has also given rise to new oversight issues. The centralization of licensing authority has not been fully accompanied by a strengthened regional oversight system, thus opening up opportunities for permit abuse, manipulation of administrative documents, and illegal mining practices in various regions. This situation indicates a disharmony between normative regulations and the implementation of oversight in the field.

The modus operandi of mining crimes in Indonesia is also increasingly complex, involving money laundering, the use of forged documents, and even the smuggling of mining products through illegal trade channels. In some cases, perpetrators use expired mining permits or exploit administrative loopholes in the transportation and sale of minerals to avoid criminal liability. Furthermore, it is not uncommon to find the involvement of certain officials and state officials who provide protection for these illegal mining activities.

The following are several forms of new modus operandi in mining crimes in Indonesia:

No	Modus Operandi	Forms of Legal Loopholes Exploited
1	Use of inactive or expired IUP	Weak administrative oversight and licensing database
2	Falsification of RKAB documents and transportation documents	Lack of integration of document verification systems
3	Use of nominee companies or dummy companies	Weak beneficial ownership regulations
4	Sale of mining products using other company documents	Mineral distribution supervision is not yet integrated
5	Illegal mining with protection from certain officials	Weak supervision and law enforcement
6	Money laundering from illegal mining through formal investments	The integration of law enforcement with the TPPU regime is not yet optimal.
7	Manipulation of mining permit areas	Overlapping data and weak spatial oversight

[1] Barda Nawawi Arief, Anthology of Criminal Law Policy, Kencana, Jakarta, 2016, p. 23.
[2] Muladi and Dwidja Priyatno, Corporate Criminal Liability, Kencana, Jakarta, 2010, p. 75.

8	Ore smuggling through illegal export channels	Weak oversight of trade and ports

These various modus operandi demonstrate that mining crimes can no longer be viewed as ordinary crimes, but have evolved into organized crime involving networks of perpetrators capable of exploiting weaknesses in the state's legal and administrative systems. In this context, conventional criminal law approaches, which focus solely on punishing perpetrators on the ground, are no longer adequate to address the intellectual and corporate actors behind illegal mining activities.

Furthermore, the criminal sanctions provisions in the Mineral and Coal Mining Law still face various issues, particularly regarding the effectiveness of criminal penalties imposed on corporations. Existing criminal provisions have not fully accommodated the development of modern corporate crime, including evidentiary mechanisms, criminal penalties for corporate controllers, and confiscation of profits from mining crimes. As a result, law enforcement tends to only address perpetrators on the ground, while the main actors who derive economic benefits are often difficult to reach through legal processes. In the concept of law enforcement, the effectiveness of the law is not only determined by the substance of the law, but also influenced by the legal structure and legal culture of society.[3]

Based on this description, this research is crucial for normatively examining the forms and development of the modus operandi of mining crimes in Indonesia, while simultaneously analyzing various legal loopholes in mining sector regulations exploited by perpetrators. This research is also crucial for formulating more effective criminal law policies to address mining crimes, particularly those related to strengthening corporate criminal liability, integrating law enforcement, and sustainable monitoring of mining permits.

METHODS

This research is a normative legal study that focuses on the study of legal norms, legal principles, and the synchronization of legal regulations related to criminal acts in the mining sector. Normative legal research is used because this study aims to analyze various legal loopholes in mining regulations that are exploited in the practice of mining crimes, including the development of the modus operandi of mining crimes in Indonesia. Thus, this study not only examines the law as a written norm (law on books), but also examines the consistency, effectiveness, and adequacy of legal regulations in responding to the development of crime in the mining sector.

The approaches used in this research include a statutory approach, a conceptual approach, and a case approach. The statutory approach is carried out by examining various regulations related to the mining sector and criminal law, including Law Number 3 of 2020, the Criminal Code, the Corruption Law, and the Money Laundering Law. The conceptual approach is used to analyze the concepts of criminal liability, corporate crime, criminal law policy, and law enforcement theories relevant to mining crimes. Meanwhile, the case approach is used to examine several practices and decisions related to mining crimes to understand the modus operandi patterns and application of law in law enforcement practices.

The legal materials used in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations, court decisions, and official legal documents related to mining and criminal law. Secondary legal materials consist of books, scientific journals, research results, academic articles, and expert opinions relevant to the research object. Tertiary legal materials include legal

[3]Satjipto Rahardjo, Law Enforcement: A Sociological Review, Genta Publishing, Yogyakarta, 2009, p. 25.

dictionaries, encyclopedias, and other supporting sources used to clarify legal concepts and terminology.

The legal material collection technique was conducted through library research, which involved inventorying, identifying, and reviewing various legal materials relevant to the research focus. All collected legal materials were then analyzed qualitatively using prescriptive methods. This prescriptive analysis was conducted to provide legal arguments regarding weaknesses in mining regulations, the forms of legal loopholes exploited in mining crime practices, and to formulate an ideal criminal law policy for addressing mining crimes in Indonesia.

RESULTS AND DISCUSSION

Development of Criminal Modus Operandi in the Mining Sector

The development of crime in Indonesia's mining sector shows an increasingly complex and organized pattern. Similarly, corporate crime has flourished alongside the rise of modern economic activity, exploiting weaknesses in state regulation and oversight.[4]Illegal mining activities are no longer carried out in the traditional manner of simply mining without permits, but have evolved through various methods that exploit regulatory weaknesses, weak administrative oversight, and corporate involvement as a means of committing the crime. These conditions indicate that mining crimes have evolved into organized economic crime, linked to corruption and money laundering.[5]

Normatively, regulations regarding mining crimes are stipulated in Law Number 3 of 2020. However, in practice, various forms of irregularities still exist, exploiting legal loopholes in the mining licensing and oversight system. Ahmad Redi explained that the main weaknesses in mining governance in Indonesia lie in weak administrative oversight and the suboptimal synchronization of mining permit data between the central and regional governments.[6]This condition makes it difficult for law enforcement officers to detect various illegal mining activities quickly.

One emerging modus operandi is the use of expired or inactive mining business permits (IUP) to conduct mineral production and transportation. In practice, perpetrators exploit weak administrative verification to continue illegal mining activities. Furthermore, the practice of using transportation documents belonging to other companies to disguise the origin of illegal mining proceeds has been discovered.[7]

Another emerging modus operandi is the use of corporations as instruments of crime. Corporations are used not only as administrative tools to obtain permits but also to disguise the main perpetrators and the flow of profits from mining crimes. According to Hasyim Sofyan's research, corporate crimes in the mining sector are generally committed through disguised company ownership, manipulation of production documents, and the use of nominee companies to avoid criminal liability.[8]

The use of nominee companies demonstrates that the main perpetrators of mining crimes are often not formally registered within the corporate structure. Consequently, law enforcement has difficulty identifying those who truly control illegal mining activities. In this context,

[4]Romli Atmasasmita, Microeconomic Analysis of Indonesian Criminal Law, Prenadamedia Group, Jakarta, 2017, p. 114.

[5]Rian Saputra, "Illegal Mining and Organized Crime in Indonesia," Jurnal RechtsVinding, Vol. 11, No. 2, 2022, p. 215.

[6]Ahmad Redi, "Problems of Law Enforcement in Mineral and Coal Mining," Jurnal RechtsVinding, Vol. 9, No. 2, 2020, p. 211.

[7]Ibid., p. 214.

[8]Hasyim Sofyan, "Corporate Crime in Mining Crimes," Mimbar Hukum, Vol. 32, No. 1, 2020, p. 78.

regulations regarding beneficial ownership in the mining sector remain ineffective in tracing the true beneficial owners of mining corporations.[9]

Furthermore, mining crimes are also spreading through the manipulation of Work Plan and Budget (RKAB) documents, falsification of mineral transportation documents, and smuggling of mining products through illegal trade channels. In some cases, illegal mining products are mixed with legal mining products to evade law enforcement scrutiny.[10]This condition shows that the mineral and coal distribution monitoring system in Indonesia still has fundamental weaknesses.

The following are several forms of new modus operandi in mining crimes in Indonesia:

No	Modus Operandi	Legal Loopholes Exploited
1	Use of inactive IUP	Weak administrative oversight
2	Falsification of RKAB and transportation documents	The verification system is not yet integrated
3	Use of nominee companies	Weak beneficial ownership regulations
4	Sale of mining products using other company documents	Weak mineral distribution supervision
5	Money laundering from illegal mining	Law enforcement integration is not yet optimal
6	Ore smuggling through illegal export channels	Weak oversight of trade and ports

These evolving modus operandi demonstrate that mining crimes can no longer be viewed as ordinary crimes, but rather as organized crimes requiring an integrated law enforcement approach. Combating economic crime cannot simply be achieved through criminal prosecution of the main perpetrators, but must also focus on tracing and confiscating the proceeds of the crime.[11]Therefore, law enforcement cannot only focus on field perpetrators, but must also be directed at revealing intellectual actors, corporations, and the flow of criminal profits.[12]

Legal Loopholes in the Regulation of Mining Crimes

Although mining regulations have been amended through Law Number 3 of 2020, various weaknesses remain in the regulation of mining crimes. One fundamental issue is the weak formulation of corporate criminal liability in the Mineral and Coal Mining Law. Existing regulations do not yet provide detailed mechanisms for proving corporate wrongdoing or the accountability of corporate controllers in mining crimes.[13]

From the perspective of corporate criminal liability theory, corporations can be held accountable if they profit from or contribute to the commission of a crime. Muladi and Dwidja Priyatno state that corporate criminal liability is crucial to address the primary actors behind modern economic crimes.[14]However, in the practice of mining law enforcement in Indonesia, criminal penalties still tend to be directed at individual actors in the field rather than corporations as the main beneficiaries.

Another problem lies in the weak integration of mining permit oversight. The centralization of licensing authority to the central government has not been accompanied by a

[9]Dian Eka Putri, “Beneficial Ownership in Preventing Corporate Crime,” IUS QUIA IUSTUM Journal, Vol. 28, No. 3, 2021, p. 437.

[10]Muhadar, “Mining Crimes and Environmental Damage,” Journal of Law & Development, Vol. 51, No. 1, 2021, p. 92.

[11]Yenti Garnasih, “The Application of Money Laundering in Natural Resource Crimes,” Indonesian Legislation Journal, Vol. 18, No. 3, 2021, p. 305.

[12]Rian Saputra, loc.cit.

[13]Ahmad Redi, op.cit., p. 220.

[14]Muladi and Dwidja Priyatno, Corporate Criminal Liability, Kencana, Jakarta, 2010, p. 75.

strengthening of regional oversight systems. As a result, various illegal mining activities continue to thrive in areas with limited administrative and geographic oversight.[15]

Furthermore, weak coordination among law enforcement officials is also a factor that makes it difficult to effectively eradicate mining crimes. Handling mining crimes is often not integrated with money laundering and corruption, even though these three forms of crime are closely linked to illegal mining practices.[16]

This situation demonstrates that weaknesses in mining law enforcement are not solely due to legal substance, but also to the legal structure and legal culture within Indonesia's law enforcement system. Satjipto Rahardjo stated that the effectiveness of law enforcement is greatly influenced by the integrity of law enforcement officials and the legal system's ability to respond to developments in modern crime.[17]

Criminal Law Policy in Handling Mining Crimes

Addressing mining crimes requires a comprehensive and integrated criminal law policy. From a penal policy perspective, criminal law functions not only as a repressive tool but also as an instrument for protecting state interests and natural resources.[18][13]

At the formulation stage, a reformulation of the provisions on corporate criminal liability in the Mineral and Coal Mining Law is needed, particularly regarding the evidentiary mechanism, criminal penalties for corporate controllers, and the imposition of additional penalties in the form of confiscation of profits from criminal activity. Furthermore, strengthening regulations regarding transparency of mining company ownership through a beneficial ownership system is also necessary to identify parties who derive economic benefits from illegal mining activities.[19]

At the application stage, law enforcement needs to be conducted through a multi-door investigation approach, integrating Law Number 3 of 2020, Law Number 31 of 1999, and Law Number 8 of 2010 into the law enforcement process. A "follow the money" approach is also crucial to trace the flow of profits from illegal mining.[20]

Furthermore, at the execution stage, law enforcement must be directed not only at punishing the perpetrators but also at recovering state losses and restoring the environment resulting from illegal mining activities. Therefore, additional penalties in the form of asset confiscation, compensation payments, and environmental restoration obligations must be implemented optimally to effectively achieve the goal of legal protection.[21]

CONCLUSIONS AND RECOMMENDATIONS

The development of crime in the mining sector shows increasingly complex, organized crime patterns involving corporations through various modes of operation, such as permit abuse, document forgery, and money laundering from illegal mining. This condition is influenced by weak oversight, regulatory disharmony, and the suboptimal provisions for corporate criminal liability in Law Number 3 of 2020. Therefore, strengthening criminal law policy is necessary through regulatory reformulation, optimizing integrated law enforcement, implementing a "follow the money" approach, and strengthening mining permit oversight to achieve equitable and sustainable mining governance.

[15]Nurul Qamar, "Problems of Mining Supervision After the Centralization of Licensing," Hasanuddin Law Review, Vol. 7, No. 2, 2021, p. 166.

[16]Yenti Garnasih, loc.cit.

[17]Satjipto Rahardjo, Law Enforcement: A Sociological Review, Genta Publishing, Yogyakarta, 2009, p. 25.

[18]Barda Nawawi Arief, Anthology of Criminal Law Policy, Kencana, Jakarta, 2016, p. 23.

[19]Dian Eka Putri, op.cit., p. 440.

[20]Yenti Garnasih, op.cit., p. 309.

[21]Muhadar, op.cit., p. 98.

REFERENCES

Ahmad Redi, "Problematika Penegakan Hukum Pertambangan Mineral dan Batubara," Jurnal RechtsVinding, Vol. 9, No. 2, 2020, hlm. 211.

Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana, Kencana, Jakarta, 2016, hlm. 23.

Dian Eka Putri, "Beneficial Ownership dalam Pencegahan Kejahatan Korporasi," Jurnal IUS QUIA IUSTUM, Vol. 28, No. 3, 2021, hlm. 437.

Hasyim Sofyan, "Corporate Crime dalam Tindak Pidana Pertambangan," Mimbar Hukum, Vol. 32, No. 1, 2020, hlm. 78.

Muhadar, "Kejahatan Pertambangan dan Kerusakan Lingkungan," Jurnal Hukum & Pembangunan, Vol. 51, No. 1, 2021, hlm. 92.

Muladi dan Dwidja Priyatno, Pertanggungjawaban Pidana Korporasi, Kencana, Jakarta, 2010, hlm. 75.

Nurul Qamar, "Problematika Pengawasan Pertambangan Pasca Sentralisasi Perizinan," Hasanuddin Law Review, Vol. 7, No. 2, 2021, hlm. 166.

Rian Saputra, "Illegal Mining and Organized Crime in Indonesia," Jurnal RechtsVinding, Vol. 11, No. 2, 2022, hlm. 215.

Satjipto Rahardjo, Penegakan Hukum: Suatu Tinjauan Sosiologis, Genta Publishing, Yogyakarta, 2009, hlm. 25.

Undang-Undang Nomor 3 Tahun 2020 tentang Perubahan atas Undang-Undang Nomor 4 Tahun 2009 Tentang Pertambangan Mineral dan Batubara

Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi sebagaimana diubah dalam Undang-Undang Nomor 20 tahun 2001

Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang

Yenti Garnasih, "Penerapan Tindak Pidana Pencucian Uang dalam Kejahatan Sumber Daya Alam," Jurnal Legislasi Indonesia, Vol. 18, No. 3, 2021, hlm. 305.