

THE URGENCY OF LAW ENFORCEMENT OF ILLEGAL MINERAL AND COAL MINING BASED ON THE VALUES OF JUSTICE AND LEGAL CERTAINTY

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ABSTRACT

This study aims to analyze the urgency of law enforcement against illegal mineral and coal mining based on the value of justice and legal certainty. The method used is qualitative research with a normative juridical approach, which focuses on the study of laws and regulations, especially Law Number 3 of 2020, and is supported by secondary legal materials such as literature, journals, and previous research. The data collection technique is carried out through a literature study that is analyzed descriptively-analytically to assess the suitability between legal norms and law enforcement practices in the field. The results of the study show that law enforcement in the mining sector still faces various obstacles, especially in institutional aspects, legal uncertainty, and weak effectiveness of administrative sanctions. The centralization of authority causes overlap between the central and regional governments and weak coordination between institutions, so that supervision of illegal mining is not optimal. In addition, there is an imbalance between economic orientation and environmental protection, as well as a lack of community participation which has an impact on the lack of distributive justice. The application of administrative sanctions also tends to be inconsistent and has not provided a deterrent effect. Therefore, comprehensive efforts are needed through institutional strengthening, regulatory harmonization, capacity building of apparatus, and consistent integration of administrative, criminal, and civil law enforcement. This reform is important to realize fair mining governance, provide legal certainty, and support sustainable development.

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INTRODUCTION

One of the strategies that contributes greatly to the economy in Indonesia is mining activities, especially in mineral and coal mining. The diversity of natural resources owned by Indonesia is so abundant that it has great potential to increase state revenue. In this case, the existence of abundant natural resources is not only used as a source of state revenue, but also plays a role in creating jobs and improving people's welfare. Basically, it has been explained in Article 33 paragraph (3) of the 1945 Constitution that natural resources are controlled by the state as much as possible for the prosperity of the people. (Haryadi, 2018) However, with the abundance of natural resources owned by Indonesia, it is now a quite serious problem, one of which is now hitting is related to illegal mining. Which in reality in this sector only thinks about their personal profits without thinking about the impact produced. (Abdullah et al., 2024)

As for when mineral and coal mining activities are carried out illegally, it will lead to significant impacts. In fact, the impact can not only harm a country in terms of state revenue in the form of non-tax state revenue (PNBP), but will also have an impact on the environment and society. Which has an impact on the environment related to ecosystem conditions and environmental pollution, for example river water pollution, soil quality degradation and so on. In addition, from the social side, the impact is in the form of giving rise to conflicts in the community and causing unrest. (Gaol et al., 2025) Activities like this are often carried out without obtaining an official permit (PETI) from the party concerned. Then it can be ascertained that illegal mining is also very risky for work safety and ignores aspects of environmental sustainability so that as communities and business actors are obliged to comply with applicable regulations and obtain a Mining Business Permit (IUP). (Cadizza, 2024)

Then if viewed normatively, a country has regulated mining activities through various laws, for example Law Number 3 of 2020 concerning amendments to Law Number 4 of 2009 concerning Mineral and Coal mining. However, in practice, law enforcement against illegal mining still faces various obstacles, both in terms of legal substance, law enforcement structure and community legal culture. In this case, consistent law enforcement is an important issue because there are setbacks in various aspects of legal life. At this time, the law is considered a solution to improve the condition of a country. (Sholehudin, 2004) This shows that there is a gap between the applicable legal rules and implementation in the field. In addition, the enactment of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, the Indonesian government implemented restrictions. This law eliminates the ability of local governments to oversee the management of coal and mineral mining in their respective regions. Under this change, the central government now has full jurisdiction, and local governments can only issue business licenses and advise and supervise their implementation. Government Regulation in Lieu of Law Number 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities and Business Licensing supports the implementation of this authority. (Tuti Widyaningrum, 2024)

Meanwhile, the neglect of illegal activities increasingly reflects injustice for those who have complied with the (legal) rules. Complex challenges in mining activities related to environmental, social, legal and economic issues. Therefore, it is very important to evaluate the extent to which mining sector law enforcement policies and practices reflect the principles of substantive justice. According to Rawls (1999) and supported by Friedman (2019), substantive justice emphasizes that laws must not only be applied formally in accordance with regulations but also provide truly fair outcomes for society. In the context of mining, this means that the implementation of the law must take into account the social, economic, and ecological impacts felt by the communities around the mine. Therefore, there is a need for a reorientation of law enforcement that not only prioritizes the legalistic-formal aspect, but also touches substantially for the realization of fair, sustainable mining governance and provides justice for all stakeholders. (Faiz, 2009)

In this case, mineral and coal mining urgently needs a comprehensive point of view, especially when it comes to the principles of justice and legal certainty. Where justice here is in the form of demanding that every customer be dealt with professionally without discrimination. A legal justice must be able to distinguish between organized corporate crime and people's mining based on basic economic needs. In addition, justice also not only punishes but also provides formality

solutions as a form of redistribution of access to natural resources for local communities. Meanwhile, legal certainty requires consistency in applying the rules, so perpetrators who commit illegal acts will receive appropriate sanctions. With the issuance of legitimacy by the government to entrepreneurs, as a form of business license in fulfilling the legal basis such as starting and running business activities. This regulation requires every business actor who wants to carry out mining activities to have an official permit, either in the form of a People's Mining Permit (IPR), a Mining Business Permit (IUP), or a Special Mining Business Permit (IUPK). This license serves as a legal instrument used by the government to supervise and control mining activities in accordance with the principles of sustainability and public interest. (Tute et al., 2025)

The lack of synchronization between the central and regional regulations, as well as the weak enforcement of the law against illegal mining, actually reflects the lack of optimal of these two values in legal practice in Indonesia. Therefore, the issue related to the urgency of law enforcement of illegal minerals and coal is an interesting research topic to be studied further. In this case, firm, consistent and fair law enforcement is expected not only to be able to provide a deterrent effect for the perpetrator. However, it will also ensure protection of the environment and increase public trust in the law. Thus, this article aims to analyze the urgency of illegal mining law enforcement based on the values of justice and legal certainty as a foundation for realizing sustainable natural resource governance.

Based on the description above, this study has the main focus related to the urgency of law enforcement in the mineral and coal sectors is not only a procedural technical issue, but is closely related to two basic legal values, namely justice and legal certainty. Weak law enforcement in the mineral and coal sector (Minerba) is a threat to the nation's ecological and economic sovereignty. Therefore, synergy is needed between the supermajority of the law and partiality in the values of justice and legal certainty. In addition, this study will analyze the synchronization of government policies in providing legal protection for the environment while ensuring healthy investment sustainability.

METHOD

The research method used in research related to the urgency of law enforcement of illegal mineral and coal mining based on the values of justice and legal certainty is a qualitative research with a normative legal approach (normative juridistic). Qualitative research was chosen because this study aims to understand and analyze the applicable legal provisions and relate them to the values of justice and legal certainty in law enforcement practices against illegal mining. In addition, by using a normative legal approach, it focuses on the assessment of legal norms against illegal mineral and coal mining, especially those regulated in Law Number 3 of 2020 concerning mineral and coal mining and other related laws and regulations

In addition, this research also uses secondary legal materials in the form of literature, scientific journals, results of previous research and others. The data collection technique is carried out through a literature study (Library Research), which is then analyzed descriptive-analytically to examine the conformity between legal norms and to assess the extent to which law enforcement has reflected the value of justice and provided legal certainty as a community. With this method, it is hoped that a comprehensive understanding of the urgency of law enforcement in the illegal mineral and coal mining sector can be obtained.

Secondary legal material includes scientific articles, books, and previous research that discusses principles of justice. The analysis in this article presents a novelty compared to previous research that generally focused on mining law enforcement solely from a normative or criminal perspective, such as those conducted by Prasetyo (2018), who applied criminal sanctions to combat illegal mining activities, and those conducted by Handayani and Kusuma (2020), which focused more on the effectiveness of law enforcement without considering substantive justice aspects. In contrast to this study, this article positions the values of justice and legal certainty as a philosophical foundation and analytical framework to assess the effectiveness of law enforcement in the illegal mineral and coal mining sector. Therefore, the novelty of this article rests on normative, philosophical, and legal policy approaches that are integrated in one analytical framework that focuses on achieving substantive justice and sustainable management of natural resources. The novelty of this research lies in its

reconstructive approach to the illegal mining law enforcement paradigm, which places the value of substantive justice on par with formal legal certainty, thus providing a basis for updating national legal policies in the field of sustainable mining.

RESULT AND DISCUSSION

Institutional Problems in Mining Law Enforcement

Mining is part or all of the stages of activities in the context of research, processing and exploitation of minerals and coal which includes general investigation, exploitation, feasibility study, construction, processing and refining, transportation and sales as well as post-mining activities. In this case, it shows that mining activities are a big activity and certainly generate great profits for the manager. (Cahyani & Poernomo, 2025) However, leaving aside the benefits of community mining activities is often lacking in understanding the importance of licensing as the permits that have been contained in the applicable regulations. All permit provisions are given in the form of documents issued by local governments based on regional regulations or other regulations that are proof of legality as a valid statement and the permission of a person or entity to carry out a certain activity or business. The existence of permits in mining business activities is one of the efforts to minimize the potential emergence of illegal or unlicensed mining problems. (Nugraha, 2024)

Basically, in the enforcement of mineral and coal mining laws, there are still often various structural, normative and cultural obstacles, especially in institutional problems. In an institution, the main problem lies in weak coordination between institutions, overlapping authority and low capacity of law enforcement institutions. This has a direct impact on the non-optimal enforcement of illegal mining practices that are still rampant in various regions. Based on this, the statement from this study is in line with the research conducted by Muh. Fathur Rahman stated that the implementation of the policy to handle illegal mining in Gowa Regency has not been running optimally. Technical barriers include limited supervisory personnel and operational infrastructure; social barriers in the form of low legal awareness of the community and local conflicts of interest; as well as institutional obstacles that include weak coordination between agencies and insynchronization of central-regional regulations. However, there is potential for support through partnerships with law enforcement officials and community surveillance initiatives that can be developed in the future. (Rahman, n.d.)

Then the principles of environmental management regulated in the Environmental Protection and Management Law (UUPPLH) have not been fully implemented. However, it shows a difference between the regulations of the Mineral and Mineral Law, which emphasize more on the use of mineral and coal resources for economic purposes, while not prioritizing environmental protection. Mining business licenses regulated by the Mineral and Mineral Law are supposed to function as a legal tool to control the environmental impact of mining activities, but in practice, they often fail to prevent environmental violations. (Pakpahan, 2025)

In institutions, there are various agencies that are authorized to manage and supervise mining such as the Ministry of Energy and Natural Resources and Minerals (EMR), local governments and law enforcement officials such as the police and prosecutor's office. However, in practice, there is often an overlap of authority between the central government and local governments. This has happened since the enactment of Law Number 3 of 2020 concerning mineral and coal mining which is an amendment to Law Number 4 of 2009. In addition, there is a lack of optimal coordination between law enforcement officials in dealing with illegal mining, so that there are often differences in perceptions in legal interpretation, lack of data synchronization and sectoral egos between institutions that can hinder the law enforcement process.

Meanwhile, when viewed from the perspective of supervision, institutional capacity is still limited, both in terms of human resources, budgets, and facilities and infrastructure. In this case, it has an impact on the low intensity of supervision of illegal mining activities, especially in remote areas. So that in the end, there are many unlicensed mining practices (PETI) that are not detected and acted upon consistently. Other problems can also come from the potential for conflicts of interest and corruption conflicts in the licensing and law enforcement process. Situations like this reflect the suboptimal application of the principles of transparency and accountability, which also results in a decrease in public trust in law enforcement agencies.

Environmental law enforcement plays a strategic role in ensuring accountable and long-term mining operations. The consistent and firm implementation of legal mechanisms can prevent further environmental damage, while protecting people's rights and accelerating sustainable development programs. Effective enforcement of environmental laws is a fundamental pillar in realizing the vision of sustainable development. By ensuring alignment between mining practices and applicable regulations, adverse impacts on ecosystem balance and social order can be minimized, while ensuring optimal use of natural resources for future generations. Environmental law enforcement is not only important for preserving nature but also helps improve public health, strengthen food and water security, and accelerate equitable and sustainable economic growth. Therefore, environmental law enforcement is an important component of the sustainable development framework. (Gofur, 2023)

Therefore, as a form of improving problems in institutions, this can be done through institutional strengthening by increasing cross-sector coordination, clarity in the division of authority and bureaucratic reform that emphasizes transparency and accountability. In addition, increasing the capacity of law enforcement officials and being wise in utilizing technology in mining supervision is also an important step to optimize law enforcement in mineral and coal mining.

Justice and Legal Certainty in Mining Governance

From a legal perspective, the concept of justice is a basic principle that demands equality and balance in the management of natural resources, including in the mining sector. In accordance with this principle, every mining activity must be carried out by considering the rights and obligations of all parties, including the state, business actors, and the community. As stipulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the principle of state control is the basis of the mineral and coal resource management system in Indonesia. Furthermore, Indonesia's mining legal system can be categorized as a legal system based on a controlled market mechanism. This means that mining activities are permitted by private entities and communities, but remain under state supervision and control to ensure fairness, equitable distribution of benefits, and environmental sustainability. This principle serves as the basis for state law in establishing licensing, supervision, and law enforcement policies in the mining sector, ensuring a balance between economic, social, and environmental interests. (HS, 2012) (Ahmad Redi, 2021)

Legal reform in the mineral and coal mining sector in Indonesia is a strategic step that plays an important role in realizing the principles of justice and legal certainty that are sustainable for the welfare of the community. Given that mineral and coal resources are national strategic assets with a vital role in supporting the country's economy, their management must be carried out based on the principles of justice and sustainability. This approach is not solely aimed at ensuring the prosperity of the current generation but also to ensure the availability of resources for future generations. One of the fundamental components of mining law reform is the creation of legal certainty. This certainty is very important so that entrepreneurs in the mining sector can carry out their activities transparently and free from regulatory ambiguity. (Ade Jona Prasetyo & Dr. T. Keizerina Devi Azwar, 2025)

Law Number 3 of 2020 concerning Mineral and Coal Mining, an amendment to Law Number 4 of 2009, strengthens several regulatory provisions that provide legal guarantees for investors. This includes provisions regarding the validity period of mining business licenses, the rights and obligations of permit holders, as well as a more systematic and transparent dispute resolution mechanism. With this legal certainty, it is hoped that investment interest in the mining sector will increase, while ensuring that natural resource management is carried out in accordance with applicable legal principles and oriented towards environmental sustainability and community welfare. (Novita Ratna Swari, 2022)

In addition to legal certainty, justice is also a central concern in the mining law reform process in Indonesia. The principle of justice in this context includes the proportionate and equitable distribution of economic benefits from mining activities between the central government, local governments, and local communities. The latest regulation emphasizes that holders of Mining Business Licenses (IUP) are obliged to make a real contribution to the region through a fair and transparent tax and levy mechanism. Furthermore, every mining company is required to implement a Corporate Social Responsibility (CSR) program, as a form of corporate social responsibility to the community around its operational area. The implementation of

this CSR program is expected to make a real contribution and have a positive impact on improving the welfare of the local community, as well as strengthening the harmonious relationship between the company and the surrounding community. (Tuti Widyaningrum, 2024)

This situation reflects that although the reform of the mining law has provided a stronger normative foundation, its implementation still faces a variety of structural and social challenges. One of the main issues is the weak mechanism of community participation and lack of transparency in the decision-making process, especially related to the granting of mining business licenses. This shows that there is a gap between the legal principles set out in the law and governance practices in the field. Therefore, it is necessary to strengthen institutions and increase the capacity of law enforcement officials and supervisory bodies in order to carry out their supervisory functions effectively and independently. In addition, collaboration between governments, companies, and communities is key to creating a fair and sustainable mining system. The government needs to ensure that every mining policy and permit complies with the principle of free, prior, and informed consent (FPIC) for the directly affected communities. This principle is essential to prevent social conflict and ensure distributive justice in the use of natural resources. Therefore, mining law reform focuses not only on economic efficiency but also on social justice and long-term environmental sustainability.

This misalignment between justice and legal certainty can have an impact on the overall weak governance of mining. On the one hand, the law that is supposed to provide certainty is inconsistent in its application. Then on the other hand, substantive justice that is expected to be able to protect society and the environment has not been fully realized. This condition has the potential to cause social conflicts, prolonged environmental damage, and a decline in public trust in the government and the legal system. Therefore, comprehensive improvement efforts are needed through regulatory harmonization, strengthening fair and non-discriminatory law enforcement, and increasing transparency and accountability in mining governance. In addition, community involvement in the policy-making process is also important, this is to ensure that the principles of justice and legal certainty can run in a balanced and sustainable manner.

Administrative Sanctions and Law Enforcement Effectiveness

Administrative sanctions are the most often used instruments in cracking down on violations, both written, temporary suspensions, administrative fines and revocation of mining business licenses. Normatively, the existence of administrative sanctions is a preventive and repressive effort to ensure business actors' compliance with the provisions of laws and regulations. However, in practice, the effectiveness of the implementation of administrative sanctions still experiences various obstacles, one of which is weak consistency in sanctions enforcement. Many violations are only given reprimands without being followed by strict follow-up actions, so that they do not cause a deterrent effect for business actors. Teguh Soedarto stated that administrative sanctions are a form of legal action imposed by the government against individuals or legal entities that violate the provisions of the law. In the field of natural resource management, administrative sanctions function as an instrument of law enforcement that aims to maintain environmental balance and ensure the sustainability of natural resource utilization. Natural resources themselves include various elements derived from nature, such as forests, water, air, minerals, and fossil fuels, which play an important role in supporting human life and national development. (Teguh Soedarto L & Anggriawan, 2023)

The application of administrative sanctions in the natural resources sector is carried out to address violations such as illegal mining activities. The types of sanctions that can be imposed include written warnings, administrative fines, suspensions, and even revocation of business licenses, depending on the severity of the violation. The imposition of these sanctions must take into account the principle of proportionality to be in line with the level of error and impact produced. More than just a repressive act, administrative sanctions also have a preventive function, namely preventing the recurrence of violations in the future. Therefore, the application of strict and consistent sanctions is expected to provide a deterrent effect for both actors and the wider community, as well as strengthen the commitment to sustainable and equitable natural resource governance. (M. Irham & Rehnaningtyas, 2023)

In addition, there is a tendency to use administrative sanctions as an alternative to avoid criminal law enforcement, especially in cases involving large-scale business actors. This is what creates the impression of injustice, because violations that should be processed criminally are actually resolved administratively. In the end, the initial goal of law enforcement to create justice and legal certainty was not optimally achieved. The provisions for administrative sanctions regulated in Law Number 3 of 2020 explain the parties authorized to impose sanctions and the types of sanctions. This change in the imposition of sanctions transfers authority from the local government to the central government, so that as a result, the right to impose sanctions is only in the hands of the Minister. As a result, there is no longer a second-line law enforcement mechanism if the local government does not apply sanctions in accordance with the provisions of Article 151 of Law Number 3 of 2020. With the centralization of the authority to impose these sanctions, victims of losses experience difficulties in accessing justice, as the process of drafting and submitting reports or complaints of violations becomes longer and more complicated. Previously, it could be done through local governments, but now it must be addressed directly to the Minister at the central level, thus limiting public access to report or complain about violations in their regions. (Agus Umar, 2020)

Apart from the application of administrative sanctions, from the perspective of legal theory, law enforcement against illegal mining activities can basically be subject to administrative, criminal, or civil sanctions. However, in practice, the application of criminal sanctions is often used as the main action, whereas in principle criminal sanctions must be the last resort (*Ultimum Remedium*). Principle *Ultimum Remedium* In criminal law, it implies that criminal law enforcement should only be used when settlement through other legal instruments such as civil law or administrative law can no longer provide effective legal effect. Therefore, before imposing criminal sanctions, law enforcement officials should ideally prioritize the implementation of administrative sanctions or other non-criminal legal mechanisms. This approach aims to ensure that law enforcement not only emphasizes the law enforcement aspect, but also considers the effectiveness, proportionality, and principles of fairness in enforcing mining laws. (Sanawiah, 2022)

The mechanism for supervision and evaluation of the implementation of administrative sanctions is still weak. The absence of an integrated monitoring system makes it difficult to ensure whether business actors have fulfilled their obligations after being sanctioned, therefore looking at previous cases, business actors continue their activities without correcting the violations committed. A sanction can be said to be effective when it is able to prevent violations, provide a deterrent effect, and support legal compliance. However, seeing the reality of administrative sanctions in the mineral and coal mining sector, they have not fully met these criteria. This can be seen from the still high number of illegal mining and the recurrence of violations committed by the same business actors.

Thus, efforts are needed to strengthen the application of administrative sanctions such as increasing the consistency of law enforcement, clarifying sanctions standards, and strengthening coordination between related institutions. In addition, it is also important to integrate administrative sanctions with law enforcement, both criminal and civil, so as to create a more comprehensive and effective law enforcement system in overcoming mineral and coal mining problems.

Principles Underlying the Enforcement Stages

Each stage of enforcement of administrative sanctions in the mining sector must be based on the principles of state administrative law, including: The Principle of Legality, that every sanction must have a valid legal basis. The principle of proportionality, that sanctions must be commensurate with the level of error. The principle of Transparency and Accountability, that every action must be accounted for legally and administratively. The Principles of Legal Certainty and Justice, so that business actors get fair and non-discriminatory treatment. Thus, the enforcement of administrative sanctions in mining management is not only punitive, but also functions as an instrument of coaching and control. Through tiered and proportional implementation, the government can maintain a balance between the interests of economic development and environmental protection, as well as ensure that mining activities are carried out in accordance with the principles of law, sustainability, and social responsibility.

CONCLUSION

Based on the results and discussion above, it shows that law enforcement in the mineral and coal mining sector still faces considerable challenges. This is rooted in institutional problems, legal uncertainty, and the imoptimal application of administrative sanctions. Structurally, the centralization of authority through Law Number 3 of 2020 has created new obstacles, where the overlap of authority between the central and regional governments and weak coordination between agencies cause supervision of unlicensed mining practices (PETI) to be ineffective. In addition, there is a gap between regulations that pursue economic benefits and the principle of environmental protection, so that business licenses often fail to be an instrument to control ecological impacts. From a legal perspective, while regulatory reforms promise certainty for investors, their implementation on the ground still ignores distributive justice for local communities, especially due to the lack of transparency and public participation in the decision-making process.

The effectiveness of law enforcement is also hampered by inconsistencies in the application of administrative sanctions which are often only formalities without providing a deterrent effect, as well as the tendency to use administrative sanctions to avoid criminal proceedings. The centralization of sanctions in the hands of the Minister makes it difficult for local communities who are directly affected by mining violations. Therefore, comprehensive steps are needed in the form of strengthening the capacity of the apparatus, harmonizing central-regional regulations, and integrating administrative, criminal, and civil legal instruments consistently. The success of mining governance in the future is highly dependent on bureaucratic reform that prioritizes the principles of transparency, accountability, and a balance between economic interests and environmental sustainability and social welfare to realize sustainable development.

To improve law enforcement against illegal mining in Indonesia, it is recommended that regulations be strengthened through reforms that clarify authority and improve inter-agency coordination, while addressing transparency and public participation. This reform can refer to recent regulations such as Government Regulation No. 39 of 2025, which amends Government Regulation No. 96/2021, and Decree of the Minister of Energy and Mineral Resources No. 391 of 2025 concerning administrative fines for violations in the mineral and coal mining business, which aims to regulate illegal practices more systematically and across institutions. Administrative sanctions need to be applied hierarchically, proportionately, and based on accurate data to effectively prevent and protect the environment and state interests, including through preventive approaches such as increased supervision and repressive measures such as firm and indiscriminate measures, as affirmed by President Prabowo Subianto's directive in August 2025.

In addition, strengthening the capacity of law enforcement officials and oversight agencies is essential to ensure fair, professional, and sustainable law enforcement, for example through innovative studies such as making illegal mining perpetrators partner with the government in environmental rehabilitation, while maintaining accountability. Integrating justice values, including the protection of people's rights and the equitable distribution of economic benefits, must be part of policy reform, in line with international commitments to climate change mitigation and the energy transition to renewable energy.

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