

## The Role of the Police to Curbing Illegal Mining in Lea Village, Tellu Siattinge - Bone Regency

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### ABSTRACT

The title of this study is "The Role of the Police to Curbing Illegal Mining in Lea Village, Tellu Siattinge, Bone Regency." The purposes of this research are (1) To find out the authority of the police on preventing illegal mining in Lea Village based on the regulation concerning mineral and coal mining (UU No. 4 Tahun 2009) (2) To find out what are the obstacles of the police on preventing Illegal mining in Lea Village, Tellu Siattinge, Bone Regency.

The type of this research is a qualitative study using sociological and juridical empirical approaches. The primary sources of this research data consist of observations and interviews. The secondary data are derived from documentation and literature reviews such as documents, books, an official statement from the result of researches, whereas the data analysis technique was carried out through three stages, namely: field data collection, data reduction, data presentation, and verification.

The results of this study indicate that: (1) The authority of the police in terms of preventing illegal mining as stated in Regulation Number 2 of 2002 concerning the Indonesian National Police (Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia), that the police have the authority doing investigations and arrests. The duties and authority of the Police are regulated in detail at 13th till 19th Clause. (2) The obstacles of Law Officers (police) in preventing Illegal Mining is still lack of socialization from related parties so that it causes a lack of public awareness of the impacts caused by illegal sand mining in the area of Lea Village, Tellu Siattinge-Bone Regency; distance traveled between the bone resort police station (polres) and the village of Lea takes quite a lot of time and the difficulty of registration procedures/procedures for issuing mining permits.

**Keyword: Illegal Mining, Role of the Police**



## The Role of The Police to Curbing Illegal Mining in Lea Village, Tellu Siattingge - Bone Regency

### A. INTRODUCTION

The Republic of Indonesia is a nation-state archipelago which territories and borders, as well as its rights, are established by law.<sup>1</sup> Indonesia is a wealthy country that has abundant mine substances. Those are gold, silver, copper, natural oil and gas, coal, etc., which are under the authority of the country. State Control Rights contains the right to regulate, to manage, and to control the management or the exertion of the substances, also the obligation to use it widely for its people's prosperity. Control of the country is held by the government.<sup>2</sup> As a law-based country, the management of mining resources has to be started with a regulation process. It must contain norms indicating commitment in conducting the activity of sustained mining management with an environmental perspective.<sup>3</sup>

Law enforcement is an effort taken by the government or an authority to grant the achievement of fairness and order in society by using several devices or governmental tools both in the form of regulations and law officers, such as polices, judges, prosecutors, as well as lawyers. Police roles according to Regulation Number 2 of 2002 concerning the Indonesian National Police as a law officer based on the principle of Equality before The Law. Police officers as law enforcers should be able to become role models of the community who are

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<sup>1</sup><https://petikanhidup.com-dik>, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 Pasal 25A". Di Akses pada tanggal 9 oktober 2019, pukul 09.10.

<sup>2</sup>Salim HS, *Hukum Pertambangan di Indonesia* (Cet. 7 Jakarta: Rajawali Pers, 2014), h. 1.

<sup>3</sup>Taufik Iman Santoso, *Amdal dan Jaminan Perlindungan Hukum* (Malang: Setara Press, 2008), h.34.

**Asniana Nur**

able to be controllers and community friends, as well as having good communication quality.<sup>4</sup>

The definition of mining according to Regulation Number 4 of 2009 in Clause 1 Verse (1) concerning Mineral Mining and Coal Mining is part or the whole of the stages of activities in the framework of research, management and business of minerals or coal which includes general investigation, exploration, feasibility study, construction, mining, processing and refining, transportation and sales, and post-mining activities. Mining businesses must have a permit, which is the permit to conduct mining business as regulated in Regulation Number 4 of 2009 concerning Mineral Mining and Coal mining issued by authorized officials, namely the Regent / Governor / Minister in accordance with the Mining Business Permit Area (WIUP ) who has the authority to do so. As is well known that the state has the right to control the land, water, and natural resources contained there including the mining substance. Based on this, it is a must for every person who will conduct the mining activity to have permission in advance from the State / Government.<sup>5</sup>

## **B. DISCUSSION**

### **1. Overview of Mining**

Mining is part or the whole of the stages of activities in the framework of research, management, and exploitation of minerals or coal, including general investigations, exploration, feasibility studies, construction, mining and management, refining, sales, as well as post-mining activities.

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<sup>4</sup>M. Usman Pubara, "Penegakan Hukum Oleh Kepolisian Terhadap Tindak Pidana Penambangan Emas Ilegal, (Studi Pada Polres Way Kanan), Jurnal, Universitas Lampung, Bandar Lampung,2018, h. 2.

<sup>5</sup> M. Arif Kurniawan, "Upaya Kepolisian Dalam Penanggulangan Tindak Pidana ...", h. 17-18.

## The Role of The Police to Curbing Illegal Mining in Lea Village, Tellu Siatingnge - Bone Regency

Mining according to Regulation Number 4 of 2009 concerning Mineral Mining and Coal Mining is part or all of the stages of activities within the framework of research, management and exploitation of minerals or coal which includes general investigations, exploration, feasibility studies, construction, mining, management and refining, transportation and sales, as well as post-mining activities.

Mineral mining is the mining of a collection of minerals in the form of seeds or rocks outside of geothermal, oil and gas, and groundwater. Coal mining is the mining of carbon deposits that are contained in the earth, including solid bitumen, peat, and asphalt.

The mining business is an activity in order to exploit minerals or coal, including stages of a general investigation, exploration, feasibility studies, construction, mining, management and refining, transportation and sales, as well as post-mining activities. The law term of mining is an English translation of mining law. Mining law is: "the law governing the extraction or mining of seeds and minerals in the soil".

This definition is focused on the community's sole right to conduct mining activity on a determined piece of land or rock. Meanwhile, the right to mine is the right to conduct investigative activities and the right to carry out exploitation activities. It does not regulate the mining only but also governs the obligations of miners to the state. Therefore, both of the definitions above need to be perfected so that according to the author, what is interpreted by mining law is the entire rule of law governing state authority in the management of minerals (mining) and regulating legal relations between the state and people or legal entities in the management and utilization of minerals (mine).

The rule of law in mining law is divided into two types, namely the written and unwritten mining law. Written mining law is the rules of law contained in the



Asniana Nur

legislation, treaties, and jurisprudence. Unwritten mining law is a law provision that is living and developing in the community. The form is not written and appears to be local, which means that it only applies to the local community. State authority is the power granted by law to the state to administer, regulate, and supervise the management of substances so that its management and utilization can improve the welfare of the community.

The state authority is held by the government. The control of substances is not only a monopoly of the government, but the right is also given to people and / or legal entities to exploit the substances so that the legal relationship between the state and people or legal entities must be regulated in such a way so that they can exploit the substance optimally. In order to do so, the government/local government/regional/city government gives mining authorization permits, work contracts, coal exploitation work agreements to the person or legal entity.

From the description above, there are three elements listed in this last definition, namely the existence of legal norms, the existence of state authority in the management of substances, and the legal relationship between the state and people and / or legal entities in the exploitation of the substances.

## **2. Overview of Research Site**

Lea village is located 21 km from the district capital and 35 km from the district of Bone. The Lea Village area can be reached by two-wheeled and four-wheeled vehicles. The area of Lea Village is 894 ha and located 3 meters above sea level, which is topographically the river's edge. The borders of the village area of Lea are as follows.

North: bordering with Cenrana Sub-District

South: bordering with the village of Patangga / Sijelling

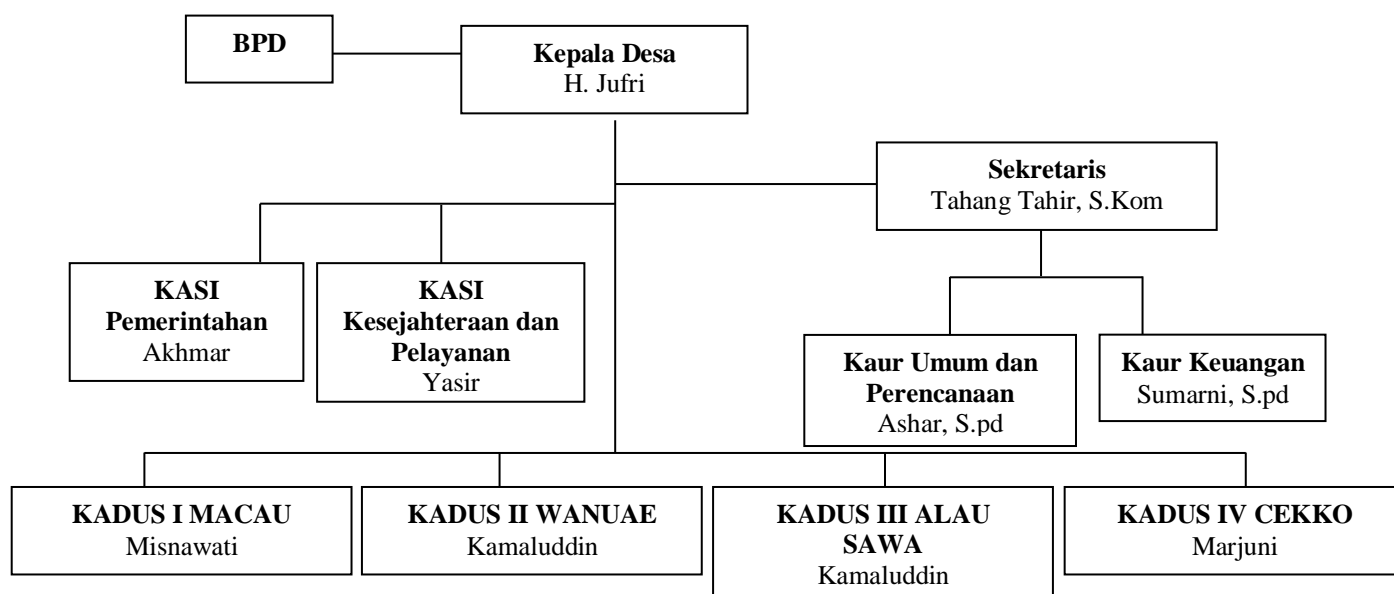
## The Role of The Police to Curbing Illegal Mining in Lea Village, Tellu Siattingge – Bone Regency

East: bordering with Village Cenrana Sub-District

West: bordering with Tocina Village

Lea village has a tropical climate with two seasons that are rain season from November to May and dry season from June to October. The villagers of Lea village in 2019, according to Village Information System or *Sistem Informasi Desa (SID)* managed by the village is 2284 people. The number consists of 1096 men and 1188 women. They all belong to 561 families.<sup>6</sup>

### **Structural Organisation of The Government of Lea Village Tellu Siattingge Bone Regency<sup>7</sup>**



### **C. Authorities of Police in Preventing Illegal Mining**

<sup>6</sup>Dokumen Pelaporan Pertanggung Jawaban Desa Lea Kecamatan Tellu Siattingge Kabupaten Bone.

<sup>7</sup> Dokumen Pelaporan Pertanggung Jawaban Desa Lea Kecamatan Tellu Siattingge Kabupaten Bone.

Police officers have general authorities stated in Clause 15 Verse (1) Regulation Number 2 of 2002 concerning the Indonesian National Police, as follows:<sup>8</sup>

- a. Accepting report and/or complaint;
- b. Helping the people to settle disputes which potentially cause trouble in society;
- c. Preventing and overcoming the growth of community diseases;
- d. Supervising the flow that possibly causes trouble to the unity of the republic;
- e. Issuing police regulations within the scope of the administrative authority of the police;
- f. Conducting specific examination as a part of preventing efforts done by the officers;
- g. Holding first act on the site;
- h. Taking fingerprints and other identities and photographing someone;
- i. Looking for information and evidence;
- j. Organizing the National Criminal Information Center;
- k. Issue permits and/or certificates needed in order to serve the community;
- l. Providing security assistance in the hearing and implementation of court decisions, activities of other agencies, and community activities;
- m. Receiving and storing found items for a while (Clause 15 Verse (1) of Regulation No. 2 of 2002 concerning the Indonesian National Police).

The authorities embedded with the police in carrying out tasks in the field of criminal proceedings according to Clause 16 of Regulation Number 2 of 2002 concerning the Indonesian National Police are:<sup>9</sup>

- a. Arresting, detention, search, and seizure.
- b. Prohibiting everyone from leaving or entering the crime scene related to the investigation.

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<sup>8</sup><https://hukum.unsrat.ac.id>, Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia, Pasal 15 ayat (1), diakses pada Tanggal 8 Oktober 2019. Pukul 13.00.

<sup>9</sup><https://hukum.unsrat.ac.id>, Undang-Undang Nomor 2 Tahun 2002 tentang Kepolisian Negara Republik Indonesia, Pasal 16, diakses pada Tanggal 8 Oktober 2019, pukul 14.20.

### The Role of The Police to Curbing Illegal Mining in Lea Village, Tellu Siatingnge - Bone Regency

- c. Bring and confronting people to the investigator in the due to the investigation.
- d. Telling to stop the person who is suspected and asking questions and checking identification.
- e. Examining letters
- f. Calling people to be heard and examined as a suspect or witness.
- g. Obtaining the necessary expertise in relation to the examination of matters.
- h. Stopping the investigation.
- i. Submitting the case file to the public prosecutor.
- j. Submitting a request directly to the authorized immigration officer at the immigration checkpoint in an urgent or sudden situation to prevent or deter a person suspected of committing a criminal offense.
- k. Providing instructions and investigative assistance to the civil servant investigators to be submitted to the public prosecutor.
- l. Carrying out other actions according to responsible law (Clause 16 Verse (1) of Regulation Number 2 of 2002 concerning the Indonesian National Police)

From the discussion above it can be concluded that mining is an activity in the context of exploiting minerals or coal. In implementing mining permits, there must be several conditions that must be fulfilled, based on Clause 32 of Regulation Number 4 of 2009 concerning Mineral Mining and Coal Mining that in order to obtain a permit, mining must be in accordance with geographical position, conservation rules, environmental carrying capacity, optimization, mineral and/or coal resources and the level of population density. If mining activities do not go through procedures and requirements that must be fulfilled, the mining is said to be illegal or an Illegal mining crime. Illegal Mining is a legal action when someone does mining without permission from the government.

To follow up on the crime based on Clause 5 of Regulation Number 2 of 2002 concerning the Indonesian National Police that the Police have the authority to maintain security and public order. Regulation Number 2 of 2002 concerning the Indonesian National Police also explains that the police have the authority in conducting investigations, investigations as well as arrests. (Clause





Asniana Nur

13 and 14), the police are given the authority set out in Clause 15 and 16 with further provisions in Clause 17, 18, and 19. This also relates to Illegal Mining Crimes if someone commits an Illegal Mining crime, then the police are authorized to conduct investigations, investigations, and arrests of the perpetrators of Illegal Mining.

In conducting mining business, there must be a permit obtained, which means the permit here is a permit to conduct mining business as stipulated in Regulation Number 4 of 2009, the requirements of a person or legal entity that wishes to issue a mining permit, the government must certainly consider several things based on Clause 32, including location geographical, conservation principles, carrying capacity of environmental protection, optimization of mineral and / or coal resources and population density. Mineral mining permits are regulated in Clause 37 regarding Mineral and Coal Mining that the issuing of permits is the authorized official, namely the Regent / Governor / Minister, according to the Mining Business License Area (WIUP), which becomes their respective authority. However, based on the results of interviews conducted by researchers with the Village Head named H. Jufri, said that the mining business located in Lea Village Tellu Siattinge Sub-District Bone Regency, that:

"The mining business in Lela Village, Tellu Siattinge Sub-District, Bone Regency, has not been licensed for several years."<sup>10</sup>

The same thing was said by the Village Secretary named Tahang Tahir, S. Kom said that:

"All people who conduct mining in Lea Village, Tellu Siattinge Sub-District, Bone Regency do not have a permit, in other words illegal, because it is restricted to conduct mining activity in the area due to the environmental conditions around the village which are not possible to

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<sup>10</sup>H. Jufri, Kepala Desa Lea Kecamatan Tellu Siattinge Kabupaten Bone, Sulsel, wawancara oleh peneliti di Desa lea, 18 Juli 2019.

## The Role of The Police to Curbing Illegal Mining in Lea Village, Tellu Siattingge - Bone Regency

carry out mining operations. In addition, on the location map of the mining business, Lea Village area is not included in the location map.<sup>11</sup>

Based on the results of interviews from the government of Lea Village Tellu Siattingge Sub-District Bone Regency, researchers analyzed that the people of Lea Village Tellu Siattingge Sub-District Bone Regency do not have permission from the government to conduct mining activity. Therefore, it is not in accordance with Regulation Number 4 of 2009 concerning Mineral Mining and Coal Mining as well as Illegal Mining Crimes, which need to be followed up by the authorities.

Also based on the results of interviews conducted by researchers with the residents of Lea Village Tellu Siattingge Sub-District Bone Regency named Nurbaya said that:

"Nurbaya disagrees with the illegal sand mining business because it has major negative impacts, such as causing erosion of riverbanks which causes land subsidence and threatens the settlements of residents who live along the riverbank because our area is not included in the location permitted to carry out mining activities of any type."<sup>12</sup>

So based on the results of interviews from the government of Lea Village, Tellu Siattingge Sub-District Bone Regency, the researchers analyzed that the same thing was expressed by the residents of Tellu Village that this is a crime of mining without permission / illegal mining, which is a crime in mining business carried out by individuals, groups of people, or a company/foundation with a legal entity which in its operation does not have a permit from the government in accordance with regulations; therefore, this is a criminal act that must be followed up by law enforcement officials. Not only that, the villagers also said that it would harm the area of Lea Village and surrounding areas

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<sup>11</sup>Tahang Tahir, S.Kom, Sekertaris Desa Kecamatan Tellu Siattingge Kabupaten Bone, Sulsel, wawancara oleh peneliti di Desa lea, 18 Juli 2019.

<sup>12</sup>Nurbaya,, Warga Desa Kecamatan Tellu Siattingge Kabupaten Bone, Sulsel, wawancara oleh peneliti di Desa lea, 18 Jauli 2019.

Asniana Nur

because the area was not included in the Bone Regency Spatial location map as the area or location of mining activities due to impossible geographic conditions and geographic location. Based on the results of observations done by researchers that the result of illegal mining carried out illegally, resulted in eroded land around settlements and resulted in land subsidence.

Based on the results of interviews conducted by researchers of law enforcement officers, in this case, the police named IPTU Jamaluddin as KANIT TIPIDTER Bone Police said that:

"In conducting or holding a mining business permit, it must pay attention to the Regulation Number 4 of 2009 concerning Mineral Mining and Coal Mining Clause 65 CHAPTER VIII that business entities, cooperatives, and individuals as stipulated in Clause 51, Clause 54, Clause 57, and Clause 60, those who conduct mining business must fulfill administrative requirements, technical requirements, environmental requirements, and financial requirements. Based on Regulation Number 4 of 2009 concerning Mineral Mining and Coal Mining Clause 68 that: (1) The total area for 1 (one) IPR can be granted to a. Individuals with a maximum of 1 (one) hectare; b. Community groups of no more than 5 (five) hectares; and / or c. Cooperatives at most 10 (ten) hectares; (1) IPR is given for a period of no more than 5 (five) years and can be extended.<sup>13</sup>

Based on the results of interviews conducted with the same person, namely IPTU Jamaluddin regarding the mining business in Lea Village, IPTU Jamal said that:

"Mining activity in the village do not have a permit because it is not included in the Bone Regency spatial location map, also because the place is potentially causing floods as well as the land of the surrounding are is at high level of erosion for the existence of river with sand mining, so it can give major impact to the residents like broken road connecting villages and regencies. So that, the law enforcement officers especially the police have taken action in the form of arrests or arrest operations (OTT) of 2 (two) residents who are carrying out illegal mining in Lea Village."

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<sup>13</sup> IPTU Jamaluddin, KANIT TIPIDTER Polres Bone, di wawancarai oleh Penulis di Polres Bone, 08 Juli 2019.

## The Role of The Police to Curbing Illegal Mining in Lea Village, Tellu Siattingge - Bone Regency

### **D. The Factors Obstracting The Police in Preventing Illegal Mining in Lea Village Tellu Siattinge Sub-District Bone Regency**

Conducting police functions and tasks as a civil servant investigator, in preventing illegal mining in Lea Village Tellu Siattinge Sub-District Bone Regency, is definitely causing various obstacles, which are:

1. The difficulty in obtaining Izin Usaha Pertambangan (IUP) or Mining Permit due to the complicated process that takes a long time caused by complicated procedures based on Clause 36 Regulation Number 4 of 2009.
2. Lack of socialization regarding Regulation Number 4 of 2009 concerning Mineral Mining and Coal Mining resulting in the increased activity of illegal sand mining
3. The distance of the location of the crime of illegal mining (illegal mining without permission) due to the distance that must be taken is far enough and taking a long time to reach, so that when there are reports of illegal mining activities at the time, the police arriving at the site of crime will not find it. Meanwhile, the police cannot immediately make an arrest if it is not an OTT-in other word is conducting illegal mining plus other evidence.
4. Lack of public awareness of the impact caused in the future about the illegal mining done by the people.

### **CONCLUSION**

The authority of the police on preventing illegal mining, as stated in Regulation Number 2 of 2002 concerning the Indonesian National Police, that the polices have the authority in conducting investigation, investigation, and arrest. The duties and authorities are regulated in detail in Clause 13 and

Asniana Nur

Clause 14, and they are given authorities that are specified in Clause 15 and Clause 16 with further stipulations in Clause 17, Clause 18, and Clause 19.

Based on those clauses related to the police authorities, it is underlined that there must be regulation, supervision, and patrol on the people's and government activity according to needs as the one happening this time, a crime of mining without a permit / illegal mining which is a crime in mining business carried out by individuals, groups of people, or companies/foundations of legal entities in which operations do not have a permit from government officials in accordance with the regulations, which has criminal sanctions for those who by mistake violate the prohibition.

The inhibiting factor of the Law Officers (polices) in preventing illegal mining is the lack of socialization from related parties so that it causes a lack of public awareness of the impacts caused by illegal sand mining (Illegal Mining) in the area of Lea Village Tellu Siattinge Sub-District Bone Regency, the distance between the office of Bone Resort Police (Polres) and Lea Village that takes a long time, and the difficulty of registration procedures/procedures in issuing mining permits.

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**Asniana Nur**

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