



Criminal Liability for Criminal Defendants Participating in Unlicensed Gold Mining

Fitriati^{1*}, Tamsir¹

¹ Universitas Ekasakti, Padang, Indonesia

*Corresponding author: fitriati@unespadang.ac.id

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Abstract

Broadly speaking, mining business activities carried out without a permit can be subject to criminal charges as well as the criminal act of participating in gold mining activities without a permit has fulfilled the elements of a criminal act and can be subject to criminal sanctions as stated in the criminal provisions of Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining juncto Article 55 paragraph (1) 1 of the Criminal Code and Criminal Procedure Code as a single indictment, as a form of criminal liability. While the consequences of illegal gold mining cause so much damage that occurs both on land and in river flows, caused by the rampant illegal gold mining activities (dompok) along the river flow. The specification of this study is that it is descriptive analytical research. The approach method used is normative juridical supported by empirical juridical approach. The data used is the secondary data inputted. The data obtained are analyzed qualitatively and presented in an analytical descriptive manner. Based on research and discussion, it can be seen that: First, criminal liability for criminal defendants participating in unlicensed gold mining based on the decisions of the Kuantan Bay District Court Number: 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021, namely imprisonment and fines for the defendant, because they have The fulfillment of the conditions that the defendant can be held criminally responsible, the defendant is sentenced to a criminal sentence in the form of imprisonment for 1 (one) year and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced by imprisonment for 3 (three) months. Second, the judge's consideration of the decisions of the Kuantan Bay District Court Number: 98/Pid.B/LH/2021 and Number 99/Pid.B/LH/2021 in the crime of unlicensed gold mining, namely the Judge in handing down decisions will consider juridical and non-juridical matters, but in general, Judges in sentencing perpetrators of unlicensed gold mining crimes are more likely to use juridical considerations than non-juridical ones, as referred to in the decision of the Kuantan Bay District Court Number 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021 in the criminal act of unlicensed gold mining.

INTRODUCTION

Speaking of mining business, the State of Indonesia is very familiar with a country that is very strong in its image of mineral content that is ready to be lifted at any time even though Indonesia occupies the position of producer for tin commodities, the fourth largest position for copper commodities, the fifth position for nickel commodities, the seventh largest position for gold commodities. These types of mining are examples that can be relied on as a source of state prosperity. To realize this prosperity, mining must be managed and utilized optimally for the

present and for the future. Mining management so far seems to prioritize maximum economic benefits, which on the other hand does not pay attention to social and environmental aspects.¹

Mining business activities carried out without a permit may be subject to criminal charges as stated in the criminal provisions of Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining (hereinafter referred to as MINERBA) states that:

Any person who conducts mining business without a Mining Business License, People's Mining Permit, Special Mining Business License as referred to in Article 37, Article 40 paragraph (3), Article 48, Article 67 paragraph (1), Article 74 paragraph (1) or paragraph (5) shall be sentenced to imprisonment for a maximum of 10 (ten) years and a maximum fine of Rp. 10,000,000,000.00- (ten billion rupiah).

This is evidenced when the author conducts research in the field, it turns out that illegal gold mining activities still occur. In addition, mining activities often do not have permits, and have a negative impact on the environment and for communities who live around the river flow, some examples include when the dry season arrives, most of the well facilities, community excavations become dry, so to utilize river water can no longer be due to waste from the results of illegal gold mining.

The phenomenon of unlicensed gold mining in Indonesia is like an iceberg, namely the number of cases seen in which there are indications of unlicensed gold mining but only very few appear on the surface. As in the jurisdiction of the Kuantan Bay District Court, cases have been decided by the Kuantan Bay District Court Number: 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021. Decision Number: 98/Pid.B/LH/2021/PN. Kuantan Bay is evidence that there has been a criminal act of unlicensed gold mining, in the verdict the judge has handed down the following verdict in the case of the defendant Sugeng Arianto alias Sugeng bin Siswanto.

Declaring the defendant Sugeng Arianto alias Sugeng bin Siswanto has been legally and conclusively proven guilty of committing "the criminal act of participating in unlicensed gold mining" as regulated and threatened with crime in Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining *juncto* Article 55 paragraph (1) 1 Law Number 1 of 1946 concerning the Regulation of Criminal Law (hereinafter referred to as the Criminal Code) and Law Number 8 of 1981 concerning the Code of Criminal Procedure (hereinafter referred to as the Code of Criminal Procedure), as well as a single indictment. Sentenced Sugeng Arianto alias Sugeng bin Siswanto to imprisonment for 1 (one) year and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced with imprisonment for 3 (three) months of confinement.

Teluk Kuantan District Court in decision Number: 99/Pid.B/LH/2021/PN. Teluk Kuantan has handed down the following verdict in the case of the defendant Sungkono alias Pak De bin Katam. Declaring the defendant Sungkono alias Pak De bin Katam has been legally and conclusively proven guilty of "the criminal act of participating in unlicensed gold mining" as regulated and threatened with crime in Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining *juncto* Article 55 paragraph (1) 1 of the Criminal Code (KUHP) and Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHP) as a single indictment. Sentenced Sungkono alias Pak De bin Katam to imprisonment for 1 (one) year and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced with imprisonment for 3 (three) months confinement.

¹ Gatot Supramono, *Hukum Pertambangan Mineral dan Batubara di Indonesia*, Rineka Cipta, Jakarta, 2012, hlm.32

Law enforcement is not only to impose punishment on every violator of the law, but also intended that its implementation must be guided by the procedures outlined by the law by taking into account the legal culture and being able to capture the sense of justice that lives in society.

METHODS

The research specifications used are descriptive analytical, namely to provide a systematic picture of all matters related to laws and regulations, legal theories of criminal responsibility for criminal defendants participating in gold mining without a permit.

The approach used is a normative juridical approach. As for normative research, namely legal research that lays down the law as a system of norms.² Secondary data are data obtained from literature research, in the form of legal literature materials consisting of primary legal materials, secondary legal materials and tertiary legal materials:³

- a. Primary legal materials are binding legal materials, including laws and regulations, related to the topic of the issue discussed.
- b. Secondary legal materials consist of, books, papers, research reports, interviews with sources, expert opinions (doctrines) that are closely related to the problem under study.
- c. Tertiary law material consists of encyclopedias, tabloids and articles as well as from *browsing the internet* that relate to the issues discussed in this paper.

The data collected in this study focused on secondary data: Secondary data were collected through *library research* and document studies.

RESULTS AND DISCUSSION

Criminal Liability for Criminal Defendants Participating in Unlicensed Gold Mining Based on the Decision of the Teluk Kuantan District Court Class II Number: 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021

Criminal liability for criminal defendants participating in unlicensed gold mining based on the decision of the Teluk Kuantan District Court Class II Number: 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021, the author will first discuss and explain about the indictment against the criminal defendants participating in unlicensed gold mining based on the decision of the Teluk Kuantan District Court Class II Number: 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021, the Public Prosecutor charges the defendant with a single charge as stipulated and threatened with crime in Article 158 *juncto* Article 55 Paragraph (1) 1 of the Criminal Code". The content of the Article charged against the defendant is "Article 158 reads: "Any person who conducts mining business without IUP, IPR or IUPK as referred to in Article 37, Article 40 paragraph (3), Article 48, Article 67 paragraph (1), Article 74 paragraph (1) or paragraph (5) shall be punished with a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 10,000,000,000.00 (ten billion rupiah)".

Against the Article of the single charge that has been charged by the Public Prosecutor to the defendant has harmed the community and the state when viewed from the side of environmental sustainability which has an impact on the community and causes losses to the country's economy because the defendant does not have a business license in conducting gold mining business. In connection with the above, the author strongly agrees that the defendant's actions are associated with Article 55 paragraph (1) 1 of the Criminal Code to the defendant, because in committing the crime the defendant is together with others. Article 1 paragraph (7) of the Code of Criminal Procedure provides the definition of prosecution is a general action to

² Peter Mahmud Marzuki, *Penelitian Hukum*, PT. Kencana Prenada Media Group, Jakarta, 2015, hlm.35.

³ *Ibid*, pp.118-119.

delegate a case to the competent District Court in the case and manner regulated in this law to conduct prosecution and carry out the determination of the Judge.

In the Code of Criminal Procedure the duty of the Prosecutor is to prove the existence of wrongdoing committed by the accused, in his prosecution the Public Prosecutor determines by a single indictment to both defendants. The Public Prosecutor's complaint states that the defendant violated the criminal act of conducting gold mining without a permit.

The Public Prosecutor's claim filed at the Teluk Kuantan District Court Class II hearing because *the defendant's actions were legally and conclusively proven guilty of committing a criminal act jointly carrying out unlicensed gold mining*, and the defendant benefited from *unlicensed gold mining activities which the defendant did*. If the case is connected with Article 55 paragraph (1) 1 of the Criminal Code, the defendant is together with other defendants

In this case, the defendants were not sentenced to criminal sanctions with aggravation because in the criminal conviction in Article 55 paragraph (1) 1, that the criminal conviction of the person who ordered to commit the crime is threatened as a criminal offender, while the criminal conviction of the person who is told to commit the crime the defendants are threatened with the same crime if the person who is told to deliberately and able to be responsible.

Regarding the criminal act of participating in unlicensed gold mining based on the decisions of the Teluk Kuantan District Court Class II Number 98/Pid.B/LH/2021 and Number 99/Pid.B/LH/2021, it can be concluded that the application of the article to the suspect has fulfilled 3 (three) elements of a criminal act and can be subject to criminal sanctions as a form of criminal liability.

The elements are: 1) The elements of action are fulfilled by the actions of actors who carry out illegal mining activities without a mining business permit (IUP); 2) The objective unlawful element has also been fulfilled because the perpetrator's actions have fulfilled the elements of the criminal act as referred to in Article 158 and Article 160 paragraph (1) of *Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining*, that conducting exploration without owning", and "conducting mining business without: a) conducting exploration without having proven in the deeds of miners with conduct mining activities without general investigation, exploration, and feasibility studies of the social and environmental environment; b) conduct mining business without being proven by the actions of miners who carry out mining business without permission from the competent authority; c) the element of performing subjective law, i.e. liability and wrongdoing.

The defendant is convicted because he has fulfilled the conditions to be held criminally responsible, namely: 1) the existence of a criminal act committed by the maker; 2) the ability to be responsible; 3) the existence of guilt on the part of the accused; 4) there is no excuse and justification, so that with the fulfillment of the conditions so that the defendant can be held criminally responsible, the defendant can be sentenced to a criminal sentence as referred to in the decision of the Teluk Kuantan District Court Class II Number 98/Pid.B/LH/2021 and Number 99/Pid.B/LH/2021 in the crime of unlicensed gold mining, the Judge sentenced the defendant *Sugeng Arianto alias Sugeng bin Siswanto and defendant Sungkono alias Pak De bin Katam*, the judge sentenced the defendant to imprisonment for 1 (one) year, and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced by imprisonment for 3 (three) months.

In the crime of participating in unlicensed gold mining based on the decisions of the Teluk Kuantan District Court Class II Number 98/Pid.B/LH/2021 and Number 99/Pid.B/LH/2021, the defendants have fulfilled this element of responsibility. The fault in this case is intentionality and negligence, and in this case the perpetrators are judged to have committed intentionality.

The burden of criminal responsibility given to the defendant *Sugeng Arianto alias Sugeng bin Siswanto and the defendant Sungkono alias Pak De bin Katam* was threatened with

crime as stipulated in Article 158 juncto Article 55 paragraph (1) to 1 of the Criminal Code, then in the decision of the Teluk Kuantan District Court Class II Number 98/Pid.B/LH/2021 and Number 99/Pid.B/LH/2021 a crime was imposed against the Defendant Sugeng Arianto alias Sugeng bin Siswanto and Defendant Sungkono alias Pak De bin Katam in the form of imprisonment for 1 (one) year, and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced by imprisonment for 3 (three) months. This shows that the burden of criminal responsibility given to criminal defendants participating in unlicensed gold mining has not been maximized. Furthermore, with the lack of maximum penalties given to the defendants, it is marked that there are still many cases of unlicensed gold mining crimes that cause criminal liability committed by communities or companies without mining permits to be increasingly rife, especially in the jurisdiction of the Teluk Kuantan Class II District Court. Although formal enforcement has been carried out, the law enforcement process here has not been optimal, because it has not touched the main actors.

Judge's Consideration of Teluk Kuantan District Court Class II Decisions Number 98/Pid.B/LH/2021 and Number 99/Pid.B/LH/2021 in the Crime of Unlicensed Gold Mining

1. Judge's Consideration of Teluk Kuantan District Court Class II Decision Number 98/Pid.B/LH/2021 in the Crime of Unlicensed Gold Mining

In case Number: 98/Pid.B/LH/2021/PN Tlk involving a defendant with the initials Sugeng Arianto alias Sugeng bin Siswanto residing in Jake Village, Kuantan Tengah District, Kuantan Sengingi Regency, which is a criminal case of participating in gold mining without a permit as regulated and threatened with crime in Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining juncto Article 55 paragraph (1) to 1 of the Criminal Code and imposing a penalty against the Defendant Sugeng Arianto alias Sugeng bin Siswanto in the form of imprisonment for 1 (one) year and 6 (six) months reduced during the period of arrest and detention that has been served by the defendant with an order that the Defendant remain detained and a fine of Rp.1.000.000.000,- (one billion rupiah) water subsidy 6 (six) months confinement;

The above passage is clearly known that there are at least 3 (three) important elements as referred to in Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining juncto Article 55 paragraph (1) 1 of the Criminal Code, the elements of which are as follows:

- a. Everyone;
- b. Conducting unlicensed mining;
- c. Do, who commands to do and who participates in doing deeds;

Based on legal facts, the defendant Sugeng Arianto alias Sugeng bin Siswanto has carried out mining in the ways as described in the previous elemental considerations and has been legally and convincingly proven, then it has also been revealed in court, that the defendant Sugeng Arianto alias Sugeng bin Siswanto has carried out gold mining activities for 2 (two) days, namely on Monday May 3, 2021 and on Wednesday May 5, 2021 when the defendant Arrested with evidence of 1 (one) unit of conch, 1 (one) paralon, and 1 (one) piece of carpet that has been used for crimes and feared to be reused to repeat crimes, then the evidence is destroyed.

The judge sentenced the defendant Sugeng Arianto alias Sugeng bin Siswanto, so it is necessary to consider in advance the aggravating and mitigating circumstances of the defendant. The aggravating circumstances, namely: 1) The defendant's actions did not support the Kuantan Singingi Regency Government in terms of PETI Control; 2) The defendant's actions have the potential to cause pollution and environmental damage, while

the mitigating circumstances, among others: 1) the defendant behaved politely during the trial; 2) The defendant admits and regrets his actions.

Taking into account, Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining *juncto* Article 55 paragraph (1) 1 of the Criminal Code and Code of Criminal Procedure and other relevant laws and regulations.

The judge judged that the defendant Sugeng Arianto alias Sugeng bin Siswanto was legally and conclusively proven guilty of the crime of participating in mining without a permit as in the single indictment, by sentencing the defendant to imprisonment for 1 (one) year, and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced by imprisonment for 3 (three) months. The judge also stipulates that the period of arrest and detention that has been served by the defendant is deducted entirely from the sentence imposed, stipulates that the defendant remains in custody and also stipulates evidence in the form of: a) 1 (one) unit of conch (seized for the State); b) 1 (one) paralon; c) 1 (one) piece of carpet (destroyed) and charge the defendant Sugeng Arianto alias Sugeng bin Siswanto to pay the cost of the case in the amount of Rp. 5,000.00 (five thousand rupiah).

2. The judge's consideration of the decision of the Teluk Kuantan District Court Class II Number 99/Pid.B/LH/2021 in the crime of unlicensed gold mining

In case Number 99/Pid.B/LH/2021/PN TLK involving a defendant with the initials *Sungkono* alias Pak De bin Katam residing in Karang Sari Hamlet, Geringging Baru Village, Benai District, Kuantan Singingi Regency, which is a criminal case of participating in gold mining without a permit as regulated and threatened with crime in Article 158 *juncto* Article 55 paragraph (1) to 1 of the Criminal Code and imposes a penalty against the Defendant *Sungkono* alias Pak De bin Katam in the form of imprisonment for 1 (one) year and 6 (six) months reduced during the period of arrest and detention that has been served by the defendant with an order that the Defendant remain detained and a fine of Rp. 1,000,000,000,- (one billion rupiah) water subsidies 6 (six) months confinement;

The above passage is clearly known that there are at least 3 (three) important elements as referred to in Article 158 of Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining *juncto* Article 55 paragraph (1) 1 of the Criminal Code, whose elements, as follows:

- a. Everyone;
- b. Conducting unlicensed mining;
- c. Do, who commands to do and who participates in doing deeds.

Based on legal facts, the defendant *Sungkono* alias Pak De bin Katam has carried out mining in the ways as described in the previous elemental considerations and has been legally and convincingly proven, then it has also been revealed in court, that the defendant *Sungkono* alias Pak De bin Katam has carried out gold mining activities for approximately 4 (four) days since Sunday, May 2, 2021 Until Wednesday, May 5, 2021. with evidence of 1 (one) unit of Tianli machine, 1 (one) paralon, and 1 (one) piece of carpet that has been used for crimes- and is feared to be reused to repeat crimes, the evidence is destroyed.

All elements of Article 158 *juncto* Article 55 paragraph (1) 1 of the Criminal Code have been fulfilled, then the defendant *Sungkono* alias Pak De bin Katam must be declared to have been legally and convincingly proven to have committed a criminal act as charged in a single indictment.

In the trial, the panel of judges did not find things that could eliminate criminal responsibility, either as justification and or forgiving reasons, then the defendant *Sungkono* alias Pak De bin Katam must be held accountable for his actions, the defendant *Sungkono*

alias Pak De bin Katam is able to be responsible, then he must be found guilty and sentenced to a crime.

In this case the defendant Sungkono alias Pak De bin Katam has been subject to arrest and detention, then the period of arrest and detention must be deducted entirely from the sentence imposed, then the evidence presented at the trial for further consideration as follows: economic, it is necessary to determine that the evidence is seized for the State. The judge sentenced the defendant Sungkono alias Pak De bin Katam, so it is necessary to consider in advance the aggravating and mitigating circumstances of the defendant.

The aggravating circumstances are: 1) The defendant's actions do not support the Kuantan Singingi Regency Government in terms of the Regulation of Gold Mining Without LZIN (PETI); 2) The defendant's actions have the potential to have an impact on pollution and environmental damage, while mitigating circumstances, namely: 1) The defendant behaved politely during the trial; 2) The defendant admits and regrets his actions. Taking into account, Article 158 *juncto* Article 55 paragraph (1) 1 of the Criminal Code and Code of Criminal Procedure and other relevant laws and regulations. The judge judged that the defendant Sungkono alias Pak De bin Katam was legally and conclusively proven guilty of the crime of participating in mining without a permit as in the single indictment, by sentencing the defendant to imprisonment for 1 (one) year, and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced by imprisonment for 3 (three) months. The judge also stipulates that the period of arrest and detention that the defendant has served is deducted entirely from the sentence imposed, stipulates that the defendant remains in custody and also stipulates evidence in the form of: a) 1 (one) unit of Tianli machine (seized for the State); b) 1 (one) paralon; c) 1 (one) piece of carpet (destroyed) and charge the defendant Sungkono alias Pak De bin Katam to pay the cost of the case in the amount of Rp. 5,000,00 (five thousand rupiah).

The judge's consideration is one of the most important aspects in determining the realization of the value of a judge's decision that contains justice and legal certainty, besides that it also contains benefits for the parties concerned so that the judge's consideration must be addressed carefully, well, and carefully. If the judge's judgment is not careful, good, and careful, then the judge's decision derived from the judge's consideration will be canceled by the High Court / Supreme Court.

Judges in handing down decisions will consider juridical and non-juridical matters, but in general, judges in sentencing perpetrators of unlicensed gold mining crimes are more likely to use juridical considerations than non-juridical ones. As for the judge's consideration in his decision, both the judge's consideration is juridical and non-juridical, namely:

a) Juridical considerations are judges' considerations based on juridical facts revealed in the trial that must be contained in the judgment, namely the Public Prosecutor's indictment, statements of defendants and witnesses, evidence, articles in criminal law regulations and so on. The judge's considerations classified as juridical considerations systematically are: a) the Public Prosecutor's indictment is the basis of criminal procedure law at the hearing. The Public Prosecutor's indictment in addition to containing the identity of the accused also contains a description of the criminal act charged by stating the time and place where the crime was committed; b) the statement of the accused according to Article 184 point e of the Criminal Procedure Code, is classified as evidence. The defendant's testimony is what the defendant states at trial about the acts he committed or that he knew himself or experienced himself; c) The testimony of a witness may be categorized as evidence insofar as it is about a criminal event that he has heard himself, seen for himself and experienced for himself, such testimony must be presented in a Court hearing by taking oath. Witness testimony

presented before the Court which is the result of mere thought or fabrication obtained from another person or *testimonium de auditu* testimony cannot be considered as valid evidence; d) the evidence revealed at the trial will increase the confidence of the Judge in assessing the truth or not of the acts alleged against the defendant, and of course the Judge will be more confident if the evidence is known and admitted by both defendants and witnesses;

- b) Non-juridical considerations, namely: a) the background of the defendant's actions in this discussion is any circumstances that cause a strong desire and encouragement in the defendant in committing a criminal act; b) as a result of the defendant's actions being criminal acts committed by the defendant are certain to bring victims or losses to other parties; c) The defendant's personal condition in this discussion is the defendant's physical and psychological condition before committing the crime, including his inherent social status.

CONCLUSION AND SUGGESTION

Conclusion

Criminal liability for criminal defendants participating in unlicensed gold mining based on the decisions of the Kuantan Bay District Court Number: 98/Pid.B/LH/2021 and Number 99/Pid.B/LH/2021, namely imprisonment and fines for the defendant, because the conditions that the defendant can be held criminally responsible have been fulfilled then the defendant is sentenced to criminal punishment in the form of imprisonment for 1 (one) year and a fine of Rp. 800,000,000.00 (eight hundred million rupiah) provided that if the fine is not paid it is replaced by imprisonment for 3 (three) months.

The judge's consideration of the Kuantan Bay District Court decision Number 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021 in the crime of unlicensed gold mining, namely the Judge in handing down the decision will consider juridical and non-juridical matters, but in general, the Judge in sentencing the perpetrators of the crime of unlicensed gold mining is more likely to use juridical considerations than non-juridical ones. The juridical considerations are based on juridical facts revealed in the trial that must be contained in the judgment, namely the Public Prosecutor's charges, statements of the accused and witnesses, evidence and facts available during the trial with the aim that the Judge will obtain useful clues in considering his decision, as referred to in the decisions of the Kuantan Bay District Court Number 98/Pid.B/LH/2021 and Number: 99/Pid.B/LH/2021 in the criminal act of unlicensed gold mining.

Suggestion

It is expected that in cases or mining activities without permits that are processed by the court and sentenced are not only perpetrators in the sense of workers or laborers who only participate in gold mining without the permit, but other actors as capital owners, owners of equipment used in gold mining activities must also be sentenced as referred to in Article 158 of Law Number 3 of 2020 concerning Amendments to the Law Number 4 of 2009 concerning Mineral and Coal Mining is a "legal certainty" for everyone carrying out mining activities without a permit (IUP, IPR, IUPK) and will be charged by anyone, both legal entities, community groups and individuals. Then it is also expected that especially the Panel of Judges in handing down the verdict needs to carefully consider the mitigating and aggravating factors in the criminal indictment so that the crime imposed is in accordance with the criminal act of the accused.

The Regional Government of Kuantan Singingi Regency must intervene to crack down on illegal miners and provide an appeal or socialization, especially regarding the mechanism of mining business permits and the legal consequences that occur if mining without a permit,

especially people's mining permits (IPR) so that the community is also aware and more insightful. Then there is also a need for a review of the policy of unlicensed mining management in plasma plantation areas based on the criteria of the greatest benefit compared to other land-based policies and the criteria of the greatest benefit to as many people as possible and oriented towards the sustainability of natural resources.

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