International Journal of Multidisciplinary Research and Publications
ISSN (Online): 2581-6187

Legal Analysis of Criminal Sanctions for Unauthorized Class C Mining Activities in Indonesia

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Abstract**—***The illegal expansion of mining activities in Indonesia has fostered black-market trade in mineral products, whereby natural resources are extracted without permits and sold unlawfully to evade state taxes. This practice undermines statutory mining restrictions, deprives the state of legitimate revenue, and erodes the rule of law in natural resource governance. The problem is particularly acute in unauthorized Class C mining, involving sand, gravel, limestone, and other non-metallic minerals, which has escalated environmental damage and community conflicts. The objective of this study is to examine the legal framework governing unauthorized Class C mining and to analyze the effectiveness of criminal sanctions in deterring such activities. Specifically, it seeks to evaluate how Indonesia's constitutional principles under Article 33 of the 1945 Constitution, along with the Minerba Law and the 2023 Criminal Code, address the dual imperatives of public welfare and environmental protection This research employs a normative legal methodology, focusing on statutory interpretation of mining and criminal laws, supplemented by doctrinal analysis of scholarly commentaries, judicial rulings, and secondary literature. The findings reveal persistent weaknesses in enforcement, despite the existence of provisions such as Articles 158, 160-164 of the Minerba Law, which criminalize mining without permits and extend liability to corporations. The study also highlights governance challenges stemming from Indonesia's oscillation between decentralization and recentralization of mining authority. The conclusion emphasizes that while the legal framework is comprehensive, enforcement remains inconsistent. The study recommends strengthening institutional capacity, enhancing community participation, and ensuring that sanctions are applied consistently to both individuals and corporations, thereby aligning mining governance with the constitutional mandate of social justice and sustainable development.*

Keywords**—** *Unauthorized, Mining, Criminal, Sanctions, Minerba, Law.*

I. Introduction

The illegal expansion of mining activities has led to the emergence of black-market mineral product trading, in which natural resources are taken without permission and then sold through illegal means with the specific goal of avoiding state taxes. This activity has reached a degree of considerable concern within the Indonesian legal framework because it violates statutory mining restrictions, denies the state legitimate revenue, and compromises the principles of lawful resource governance. (Purnomo et al, 2024)

Indonesia is well known for having an abundance of natural resources, especially minerals and mining resources. The state is in charge of these natural resources, which implies that it has the power to control, oversee, and govern their use and administration for the benefit of the populace as a whole. Under *Article 33 of the Indonesian Constitution* serves as the constitutional foundation for the state's authority over natural resources (The Indonesian Constitution, 1945). In line with the objectives of national development, the national objectives outlined in the fourth paragraph of the Preamble to the 1945 Constitution also place a high priority on protecting all Indonesians and their homeland, improving public welfare, educating the public, and assisting in the establishment of a global order founded on freedom, lasting peace, and social justice (Admos, 2019).

All sorts of mining are fundamentally a reflection of human endeavors to produce and make use of the earth's natural resources. Both economic gains and detrimental effects on the environment and society are unavoidable outcomes of such operations. It is significant to note that mining in Indonesia is not limited to state-owned businesses or private firms; local communities may also engage in mining autonomously without being connected to any official corporate structure. The necessity to generate revenue by exploiting local natural resources is typically what drives community-based mining (InCorp, 2025).

II. Brief Overview of Indonesia's Mining Governance History: Transitioning from Decentralization to Recentralization

From the post-1998 period of decentralization to the more recent re-centralization of authority under the Regional Government Law and the Omnibus Law on Job Creation, this paper charts the historical development of mining governance in Indonesia, highlighting the institutional and legal changes. In an effort to balance local involvement, legal certainty, and national development goals in the mining industry, the Indonesian government has alternated between regaining central control and extending regional autonomy (Masuda H. *et al,* 2022).

There have long been conflicts between the decentralization and centralization tenets in Indonesia's natural resource governance. Decentralization has been pushed as a

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way to empower local communities and democratize governance, while centralization has been defended as essential to maintaining environmental protection, investment stability, and legal certainty. In the mining industry, where regulations have changed dramatically over the last 20 years in Indonesia (Bolgherini, S. 2025).

A. Decentralization and the Early Reform Era (1999–2009)

After the collapse of the New Order government in 1998, Indonesia adopted a regional autonomy program. The Law No. 22 of 1999 on Regional Government gave district/municipal and provincial governments a wide range of powers, including the ability to manage natural resources. Because of this decentralization, local governments were able to control mining operations and provide permits. Although the decentralization policy was designed to promote local accountability and community development, it had unexpected consequences. Overlapping licenses, inadequate monitoring, and pervasive regulatory inconsistency resulted from the fact that many district heads issued mining permits without sufficient legal, environmental, or technical oversight. The efficiency of decentralization in the extractive industry was weakened by these flaws (Negara, S. D., & Hutchinson, F. E. (2021).

B. The Mining Law of 2009 and the Mining Area Structure

In recognizing both the potential benefits and risks of mining activities, the Indonesian government has established a regulatory framework to structure and control mining operations through the designation of Mining Areas (*Wilayah Pertambangan*-WP). These areas are divided into three categories: (1) Mining Business Areas (Wilayah Usaha Pertambangan-*WUP*), designated by the central government in consultation with the national legislature (DPR RI); (2) People's Mining Areas (*Wilayah Pertambangan Rakyat*-WPR), determined by district heads or mayors after consultation with the local legislature (*DPRD*); and (3) National Mining Areas (*Wilayah Pertambangan Nasional-WPN)*, established by the central government with the approval of the DPR RI (Diorisha et al; 2025).

This system allowed district leaders or mayors to determine WPR after speaking with local legislators, while the central government determined WUP and WPN after speaking with the DPR RI[1] in order to maintain a balance in the distribution of power. By recognizing the necessity of both community involvement and national authority, the system showed an effort to formalize both central and local roles in mining governance.

C. The Regional Government Law of 2014 and the Shift to Centralization

Constant issues with governance Specifically, permit overlaps, corruption, and uncertainty surrounding investments led to a fundamental change in policy. The federal government was given control over mining permits after local governments lost that ability with the passage of Law No. 23 of 2014 on Regional Government. With this law, centralized governance in the mining industry was firmly reinstated. While Mining Business Areas, National Mining Areas and People's Mining Area's classifications were not altered, the Minister of Energy and Mineral Resources (ESDM) was given more authority to grant permits. The substantial influence that local governments had on resource management was diminished when they were reduced to a primarily consultative role (Dalimunte, Gufron, & Supriyadi, 2023).

D. The Omnibus Law on Job Creation and Its Later Amendments

The Omnibus Law on Job Creation, which amended a number of sectoral laws, such as the 2014 Regional Government Law and the 2009 Mining Law, strengthened the trend toward centralization The Omnibus Law aimed to improve regulatory certainty, cut down on bureaucratic layers, and expedite investment procedures for the mining sector (*Law No. 11 of 2020*). The government issued Government Regulation In lieu of Law No. 2 of 2022, which was subsequently approved as Law No. 6 of 2023, in response to a Constitutional Court decision that found procedural flaws in the Omnibus Law. These laws upheld the centralization paradigm, which stated that the Minister of ESDM was to issue all mining permits and that local governments were solely to serve as advisors in determining WPR (International Organization of Employers [IOE], 2023).

There has been a legislative pendulum swing between centralization and decentralization in Indonesia's mining governance history. Although decentralization (1999–2009) was meant to empower communities and local governments, it instead resulted in a lack of effective oversight and fragmented regulations. WUP, WPR, and WPN classifications were introduced as part of the 2009 Mining Law framework formalization in order to balance local and national interests. The state's concern for environmental preservation, investment security, and anti-corruption initiatives propelled the recentralization movement (2014–2023), which resulted in complete central control over licensing (Witesman, E. 2020).

Unauthorized Class C mining, which typically entails the exploitation of non-metallic minerals including sand, gravel, stone, and clay, presents serious legal issues under this regulatory framework. According to Indonesian mining legislation, engaging in such activities outside of approved mining zones or without the necessary authorization not only compromises the rule of law but also exposes one to criminal culpability. Since noncompliance with licenses and territorial designations serves as the primary foundation for criminal enforcement, the legal analysis of criminal punishments for unlicensed Class C mining must be placed within this larger framework of controlled mining regions.

[1] The House of Representatives, also known as the People's Representative Council of the Republic of Indonesia (Indonesian: *Dewan Perwakilan Rakyat Republik Indonesia*, DPR-RI), see, https://dbpedia.org/page/People%27s_Representative_Council#:~:text=The%20People%27s%20Representative%20Council%20of%20the%20Republic%20of,Consultative%20Assembly%20%28MPR%29%2C%20the%20national%20legislature%20of%20Indonesia..

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III. Literature Review

According to Salim HS, mining law can be understood as the collection of legal norms that define the state's authority over the management of mineral resources, while simultaneously regulating the legal relationships between the state and individuals or legal entities engaged in their utilization and exploitation. This conceptualization underscores the dual role of mining law: as an instrument of state control and as a framework for guiding private participation (Law qora, 2024). Within the context of unauthorized Class C mining, this definition is particularly relevant, as violations represent not only a breach of state authority but also a disruption of the legal balance between the state, society, and private actors in the governance of natural resources.

Warburton (2018) noted that although Indonesia's economy has grown significantly during the *Reformas*i era, the distribution of the benefits from the use of natural resources is still very uneven. This disparity is a reflection of Indonesia's larger problems with resource governance, where local populations have not always been treated fairly by legal frameworks and enforcement systems.

Scholars note that the late 1960s marked a turning point in Indonesia's economic and mining regulatory framework. The MPRS Decree No. XXIII/MPRS/1966 established a new direction for national development, emphasizing the need to transform natural resource wealth into tangible economic strength, to utilize foreign technology and expertise for national development, and to regulate both foreign and domestic capital participation (Scott, P. D. (1985). This policy foundation led to the enactment of Law No. 1 of 1967 on Foreign Investment and Law No. 11 of 1967 on the Basic Provisions of Mining, which together shaped the legal architecture of the mining sector for decades.

The 1967 Mining Law introduced several key principles: state sovereignty over natural resources pursuant to Article 33 of the 1945 Constitution; the classification of mineral resources into strategic, vital, and non-strategic categories; and the requirement that mining activities be conducted primarily by the state or state enterprises, with private domestic and foreign companies relegated to contractor status under government authority (Salim H. S., 2005). Importantly, the concession system was abolished and replaced with the *Kuasa Pertambangan* (Mining Authority Permit), reflecting the state's intention to prevent private entities from exercising excessive rights over national resources.

This period (1967–2008) became widely known as the Contract of Work era, during which foreign investment in mining was facilitated through formal contracts between the Indonesian government and foreign companies, or joint ventures with domestic firms. According to Salim H. S. (2010), Contracts of Work were legal agreements that granted foreign contractors exploration and exploitation rights for a specified period, under strict government oversight.

The literature often refers to this phase as a 'golden era of Indonesian mining' because the legal framework created both economic and political stability, which attracted substantial foreign investment into the sector (Yosef, 2024). The contract-based model not only supported Indonesia's economic development goals but also provided a mechanism to balance state control with foreign participation.

According to Sabungan (2018), Indonesian mining law has traditionally divided minerals into three groups: Class A, which includes strategic minerals like coal, nickel, cobalt, uranium, oil, and natural gas; Class B, which includes essential minerals like gold, silver, copper, bauxite, and iron; and Class C, which includes non-strategic minerals of comparatively lesser significance like limestone, stone, and other building materials. Additionally, there were differences in the exploitation rights: Class A minerals were only available to state enterprises, and foreign companies could only participate as partners; Class B minerals were available to both foreign and Indonesian companies; and Class C minerals were typically accessible to Indonesian companies and even individual operators.

The hierarchical structure of Indonesia's previous mining governance, in which the state retained control over strategic resources while permitting different levels of private involvement for other categories, is exemplified by this tripartite classification. The state, contractors, and holders of *Kuasa Pertambangan* (Mining Authority permits) were the three groups into which offenders in the mining industry were actually divided. This categorization is still important for talks about illicit Class C mining today because it illustrates how Class C was intended to be more accessible, yet it is this accessibility that has frequently resulted in unregulated and unlawful mining activities.

IV. Research Methodology

This research adopts a normative legal research approach, also known as doctrinal research, which primarily examines laws, regulations, and legal principles relevant to unauthorized Class C mining activities in Indonesia. The study is aimed at analyzing the criminal provisions under the Mineral and Coal Mining Law (Law No. 4 of 2009, as amended by Law No. 3 of 2020), related implementing regulations, and their enforcement within the Indonesian legal system. Primary Legal Materials: The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), particularly Article 33. Law No. 4 of 2009 concerning Mineral and Coal Mining, amended by Law No. 3 of 2020. Law No. 1 of 2023 regarding the Indonesian Criminal Code (KUHP). Associated government regulations, ministerial orders, and judicial rulings. Secondary Legal resources include: Books, journal articles, and theses pertaining to mining law, environmental law, and criminal law. Commentaries from legal experts such as Salim H.S. (2005, 2010) on Indonesian mining legislation. Research papers on mining governance and enforcement. While tertiary Legal Materials includes; Dictionaries, encyclopedias, and trustworthy online databases to elucidate terms and concepts.

V. Results and Discussion

Regulatory Framework and Criminal Penalties for Unauthorized Class C Mining

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Mining is defined as any or all stages of activities related to the exploration, management, and development of minerals or coal as per the article 1 of the Mineral and Coal Mining. (Law No. 4 of 2009, as amended by Law No. 3 of 2020). Operations such as exploration, feasibility studies, construction, mining, processing and refining, transportation and sales, and post-mining are highly technical and environmentally dangerous (Purnomo et al, 2023) As a result, mining operations need to be done with caution, taking into account the environment, and avoiding overdoing it or harming it. Keep in mind that each environment has its boundaries. The unlawful coal mining, also known as mining without a permit, is a crime that can jeopardize the interests of the local population and damage the environment.

Under Article 34(1) of the Minerba Law of 2020, mining activities are classified into two broad categories: mineral mining and coal mining. Mineral mining is further subdivided into four groups; radioactive mineral mining, metallic mineral mining, non-metallic mineral mining, and rock mining (Republic of Indonesia, 2020).

Criminal liability was restricted to individuals under the previous Indonesian Criminal Code (KUHP), which did not recognize businesses as criminal subjects. However, corporations are now recognized as entities susceptible of criminal liability as a result of the progress of criminal law reform. A number of special statutes outside the KUHP, such as Law No. 4 of 2009 on Mineral and Coal Mining (Minerba Law), Law No. 32 of 2009 on Environmental Protection and Management (Simon, 2014).

The new *Criminal Code, Law No. 1 of 2023*, has made corporations explicitly liable for crimes. *Article 45(1)* makes it clear that corporations are the objects of criminal activity. As a result, companies are now officially recognized by Indonesian criminal law as legal entities that are subject to criminal penalties. When a corporation commits a crime, both the management and the corporation itself may be subject to fines that are one-third higher than the statutory limit, according to Article 163(1) of the Minerba Law.

According to *Article 158 of the Minerba Law*, anyone found guilty of mining without a permit as defined by Article 35 faces a maximum sentence of five (5) years in prison and a fine of up to Rp100,000,000,000 (one hundred billion rupiah). Therefore, under the Minerba Law, both persons and corporations are subject to criminal liability in instances involving unlicensed mining. Corporate actors who engage in illegal mining operations can be held criminally responsible since companies are recognized as criminal subjects (Simon, 2014).

Illegal mining, particularly when involving dangerous substances such as mercury, inflicts enduring damage on the environment by polluting soil and water, harming ecosystems, and hastening deforestation. The severity of these effects is exacerbated by the fact that these operations circumvent the regulatory protections established for licensed mining (UNODC, 2025) In Indonesia, illegal Class C mining activities involving sand, gravel, and limestone further exacerbate land erosion, flooding, and damage to infrastructure. This situation underscores the critical need to enforce the above *Article 158 of the Minerba Law*, which makes mining without a permit a criminal offense, in order to address both environmental harm and breaches of the law.

Beyond individual liability, the Minerba Law explicitly recognizes corporations as criminal subjects. Article 163 provides for enhanced fines one-third above the maximum for individuals as well as corporate sanctions such as license revocation and dissolution of legal status, thereby aligning with the broader recognition of corporate liability under Indonesia's 2023 Criminal Code. Article 164 complements this by allowing supplementary penalties, including confiscation of equipment, forfeiture of illicit profits, and obligations to fund environmental rehabilitation. Collectively, these measures reflect a restorative justice approach, ensuring that both individuals and corporations engaged in illegal mining are held accountable for economic harm and ecological damage (Redhi Setiadi et al, 2023)

Article 158 of the Mineral and Coal Mining Law categorizes mining activities conducted without a permit as a criminal offense, citing five essential provisions regarding licensing. Article 37 designates the responsibility for issuing Mining Business Licenses (IUPs) to regents/mayors, governors, or the minister, based on the jurisdiction involved. Article 40(3) mandates that IUP holders must obtain a new permit if they intend to extract minerals beyond the scope of their initial license. Article 48 outlines the process for granting Production Operation IUPs at local, provincial, and ministerial levels. While Article 67(1) grants regents/mayors the authority to issue People's Mining Licenses (IPR). Finally, Articles 74(1) and (5) regulate the minister's powers in issuing Special Mining Business Licenses (IUPK) or reallocating rights when license holders opt not to continue with further exploitation (*Law No. 4 of 2009 on Mineral and Coal Mining as amended by Law No. 3 of 2020*).

Individuals who participate in mining operations without the necessary authorization from regents, mayors, governors, or the minister may encounter two types of sanctions. Firstly, they could be sentenced to imprisonment for a duration of up to ten years. Secondly, they may incur financial penalties, with fines that can amount to a maximum of IDR 10,000,000,000 (ten billion rupiah). Furthermore, liability also encompasses actions such as submitting false reports or offering misleading statements (Wiranegara, 2024).

According to Law No. 22 of 2001 concerning Oil and Natural Gas, unauthorized oil extraction is explicitly forbidden, as oil and gas are non-renewable resources of strategic importance that have a direct impact on the well-being of the populace. Consequently, their management should focus on maximizing public advantage and fostering national economic development. Given this strategic significance, the law imposes criminal liability to tackle both the unlawful act itself (formal offense) and the resulting consequences material offense (*Lasmadi, Sudarti, Arfa, & Pahlefi, 2025*)

This dual strategy guarantees that offenders are held responsible not only for breaching regulatory standards but also for the environmental, social, and economic damages that stem from unauthorized oil extraction activities.

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