



Dynamics of Illegal Mining Law Enforcement in Arosbaya

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Abstract

Handling the illegal mining problem in Buduran Village, Arosbaya Subdistrict, Bangkalan Regency, East Java, requires a comprehensive and diverse approach. This problem reflects the complexity between people's economic activities, laws and regulations, and environmental protection. First of all, stricter supervision and law enforcement are needed to prevent and crack down on illegal mining activities. This involves improving the capacity and independence of law enforcement officials, as well as increasing public legal awareness. In addition, there is a need to improve legal structures and legal culture that support compliance with the law and environmental protection. The government also needs to strengthen cooperation among various stakeholders, including local governments, law enforcement officials, NGOs and local communities, to find sustainable and equitable solutions. Thus, only through a holistic and integrated approach, supported by active participation from all parties, can the problem of illegal mining be effectively addressed to realize social justice, environmental sustainability, and overall community welfare.

Keywords: Law Enforcement, Mining, Illegal.

INTRODUCTION

The 1945 Constitution Article 33 Paragraph 3 states that the earth and water and the natural resources contained therein are controlled by the state and must be used for the greatest prosperity and welfare of the people, so basically all natural resource wealth must be managed with the permission of the state, including the results of mining activities. Mining activities include the extraction of various mined goods. Minerals, which are chemical elements and fall under the category of natural sedimentary rocks, do not include categories

such as metals, coal, petroleum, natural gas and radioactive materials. These minerals are generally used as major or supporting components in the industrial and building sectors.

Some examples of materials obtained from mining include stones from mountains, stones from rivers, limestone, coral, gravel, marble, various types of sand such as silica sand and quartz sand, kaolin, and clay. The brick industry is not only an ordinary manufacturing sector, but also has a close relationship with the mining sector. This is because the brick production process starts from the stage of mining clay, which is the main ingredient in brick making. Clay mining is done carefully and meticulously to ensure the quality of the clay that will be used in the production process. Mining sites are carefully selected based on the quality and availability of adequate clay.¹

In addition, it is necessary to evaluate the environmental impact that may arise from mining activities. Once the clay has been mined, the next stage is the processing of the clay. This process involves separating, screening and pulverizing the clay to remove any unwanted material. This is done to ensure that the clay used in brick making is pure and unpolluted. In addition, in the processing process, clay can also be mixed with other additives, such as sand, fly ash, or other additives, according to the needs and specifications of the desired brick product. This process is done to increase the strength, durability, and other characteristics of the bricks produced.

Thus, it can be concluded that the brick industry not only involves the manufacturing process in making bricks, but is also an integral part of mining activities. The quality of the raw materials used in production largely determines the final quality of the brick products produced. Therefore, it is important to maintain environmental sustainability and quality as well as sustainable mining practices in the brick industry.

The history of brick use has been an integral part of human civilization since ancient times. Evidence of the use of bricks can be traced back in time, even to the prehistoric era. In Indonesia, examples of the use of bricks can be found in the construction of ancient temples, as seen in the temple complexes of the Majapahit kingdom scattered in Trowulan District, Mojokerto Regency. The use of bricks in the construction of these ancient temples is authentic evidence that bricks have been a very important construction material since ancient times. Apart from being used for the construction of sacred buildings such as temples, bricks were also widely used to build religious and government structures at that time.

The presence of bricks in historical sites is important evidence in understanding the development of architecture and construction techniques in the past. In the modern era, despite the development of more advanced construction technologies and materials, the use of bricks is still relevant and a major component in the construction industry. The steady demand for bricks comes not only from the construction of conventional buildings, but also from modern building projects that emphasize strength, durability, and design

¹ Luqmana, V. D., & Makhali, I. (2025). PENEGAKAN HUKUM TERHADAP PENAMBANGAN PASIR LIAR (Studi Kasus di Sekitar Aliran Sungai Brantas Kecamatan Ngantru, Kabupaten Tulungagung). *Mizan: Jurnal Ilmu Hukum*, 13(2), 256-266.

aesthetics. The brick industry has a significant role in meeting the needs of construction materials in various development sectors. In addition, the industry also has a rich historical value, given its contribution in the construction of human civilization since ancient times. Technological developments in brick production have also enabled the adoption of various manufacturing methods that are more efficient, environmentally friendly and of high quality. With significant growth potential in the mining and construction industries, the brick industry is not only a pillar of the local economy, but also plays an important role in infrastructure development and the fulfillment of housing needs for the community. Through innovation and sustainable technology development, the brick industry is expected to continue to grow and make a greater contribution in building a better future for the community and the environment.

The brick industry today consists not only of modern operations, but also includes traditional industrial sectors. Many of the brick industries, especially those that conduct traditional clay mining activities, do not have official licenses. Many of them operate illegally, as is the case in Buduran Village, Arosbaya Sub-district, Bangkalan Regency, East Java. The brick mine in Buduran Village has been operating since 2000 without a clear official permit. The fundamental reason why the community is involved in this illegal mining activity is as a source of livelihood, although this lack of clarity in licensing has the potential to cause a lack of supervision of mining activities, which in turn has complex impacts, both in terms of the economy and the environment. One of the negative impacts that often occurs due to mining activities is air pollution. The mining process releases dust and toxic gases into the air, which can endanger the health of surrounding communities.

In addition, water pollution is also a serious problem. Waste from mining activities can contaminate water sources, disrupt aquatic life and harm species that depend on them. Landscape destruction is also a significant impact of mining operations. The mining process alters the landscape and can damage the land and surrounding natural habitats.² As a result, biodiversity is threatened as habitats are disturbed, which in turn threatens endemic species and biodiversity. To address this issue, mining activities are regulated under Law (UU) Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. However, it is important to explore in depth why such illegal mining was able to operate in the first place. This study can provide valuable insights into weaknesses in the licensing, supervision or law enforcement systems that allow illegal mining practices to flourish. By understanding these root causes, more effective preventive measures can be implemented to prevent similar cases from recurring in the future.

Although the Arosbaya mine has now ceased operations and has been transformed into a tourist destination known as Bukit Arosbaya, it is important to continue juridical and normative studies to understand the dynamics underlying previous illegal mining activities. Thus, better measures can be

² Razak, A. (2023). Efektivitas Penegakan Hukum Terhadap Pelaku Penambangan Pasir Tanpa Izin (Studi Pada Kepolisian Resor Pangkep). *Innovative: Journal Of Social Science Research*, 3(4), 2349-2364.

taken to manage natural resources wisely, protect the environment, and ensure economic and social sustainability for local communities. The issues raised regarding illegal brick mining in Buduran Village, Arosbaya Sub-district, Bangkalan Regency, East Java, reflect the complexity between people's economic activities, laws and regulations, and environmental protection. This mining is managed independently by the community without clear licensing, even though there are laws and regulations governing the utilization of natural resources, including mining. Mining licenses are important in ensuring that mining activities are conducted in a legal and controlled manner.

In this case, brick mining activities carried out without a license created various problems, including legal, environmental and social aspects. Legally, these activities violate laws and regulations governing the utilization of natural resources, especially in terms of mining management. Without a valid permit, it is difficult to control and supervise the mining activity, which has the potential to harm the environment and surrounding communities.³ In addition to legality issues, illegal mining can also have a significant negative impact on the environment. Uncontrolled mining processes can cause environmental damage such as soil erosion, water pollution, and habitat destruction for local flora and fauna. These impacts are not only short-term, but can also lead to more serious problems in the long term.

Socially, the presence of illegal mining can also create tension and conflict among local communities. This can occur due to competing uses of natural resources, land struggles, and issues related to property rights and land ownership. Thus, the legal issue of illegal brick mining in Buduran Village requires a comprehensive approach, covering not only legal and licensing aspects, but also environmental protection and social conflict resolution. Coordination between various parties, including the local government, law enforcement officials, environmental NGOs and the local community is needed to find the right solution to deal with this issue effectively and sustainably.

RESULTS AND DISCUSSION

1. Dynamics of Arosbaya Illegal Mining Law Enforcement

In dealing with the issue of illegal brick mining in Buduran Village, a comprehensive understanding of the various aspects involved is required. A holistic and diverse approach is needed to understand the dynamics that occur in the field, so that the resolution steps can be targeted and sustainable. One relevant approach is to analyze the situation through the lens of Lawrence M. Friedman's theory. Lawrence M. Friedman's theory offers an in-depth framework for understanding the relationship between law, social structure and culture in the context of law enforcement. By using this approach, we can dig deeper into the illegal mining problem in Buduran Village and its underlying factors.

First of all, we can analyze the legal substance related to mineral mining and environmental protection, in accordance with Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and

³ Barda Nawawi Arief, 1994, *Kebijakan Legislatif Dalam Penanggulangan Kejahatan Dengan Pidana Penjara*, Ananta, Semarang.

Coal Mining, as well as Law Number 32 of 2009 concerning Environmental Protection and Management. By deeply understanding the content of these laws, we can identify loopholes or weaknesses in the application of the law that may be the main cause of illegal mining activities.

Second, through the perspective of Friedman's theory, we can evaluate the existing legal structure or legal institutions. The existence of illegal mining that has been operating without an official license since 2000 shows a failure in the licensing and supervision system that should be carried out by the local government and related agencies. The lack of supervision allows illegal activities to take place without significant obstacles. Thus, we can identify weak points in the legal structure that need to be improved or strengthened. In addition, using this approach, we can also understand more about the legal culture or social norms that exist in the local community.⁴ The fact that illegal brick mining is often seen as an important source of income for some communities, reflects the existence of social or economic norms at the local level that influence the perception of illegal activities. In some cases, economic factors can be the main reason why communities choose to engage in illegal activities, despite knowing the legal risks involved.

The legal substance related to mineral mining and environmental protection is an important focus in understanding the issue of illegal brick mining. Law No. 3/2020, which regulates the amendment of Law No. 4/2009 on Mineral and Coal Mining, as well as Law No. 32/2009 on Environmental Protection and Management, are relevant legal footing in this case. Although the legal framework is clearly regulated, the fact that illegal brick mining activities are still ongoing indicates that there are gaps or weaknesses in the application of the law that need to be further reviewed. First of all, Law No. 3/2020 brings important changes in regulations related to mineral and coal mining, including the regulation of the concept of Mining Law Area, mineral and coal management authority, and more detailed management plans. However, the existence of illegal mining raises questions about the effective implementation of this regulation.

Is the new regulation firm enough in providing clear guidelines and provisions related to mining business licenses? Second, Law No. 32/2009 on Environmental Protection and Management provides a strong legal basis for environmental protection in the context of mining activities. However, despite this regulation, illegal mining activities still damage the environment and harm the surrounding community. This shows the need for further evaluation of supervision and law enforcement mechanisms related to environmental aspects in the context of mining. In addition, the existence of gaps or weaknesses in the application of the law can also be caused by factors such as the lack of adequate human resources and legal infrastructure, as well as the lack of coordination between relevant institutions in conducting supervision and law enforcement. A thorough evaluation of these various aspects is

⁴ Sari, D. L. I. (2023). Kebijakan ekspor pasir laut pasca diundangkan Peraturan Pemerintah nomor 26 tahun 2023 berdasarkan prespektif teori sistem hukum. *Jurnal Hukum Samudra Keadilan*, 18(2), 406-423.

needed to ensure that existing laws can be effectively implemented and provide adequate protection for natural resources and the environment.

The existing legal structure or legal institutions also need to be evaluated. In Buduran Village, the existence of illegal brick mining that has been going on since 2000 without an official permit is a reflection of the failure of the licensing and supervision system that should be carried out by the local government and related agencies. This failure raises several issues that need to be evaluated in depth. First, the lack of supervision allows illegal activities to continue unhindered. Without adequate supervision, law violations such as illegal mining can take place without being stopped by the authorities.⁵ This not only threatens environmental sustainability and public order, but also creates injustice for business actors who comply with applicable regulations. Secondly, the continued existence of illegal mining over the years indicates weaknesses in the licensing system. Licenses that are not strict or difficult to fulfill can be a loophole for illegal practices. In addition, the lack of supervision of the application of licenses is also a supporting factor for the continuation of these illegal activities.

Third, the inability of local governments and related agencies to effectively enforce regulations indicates deficiencies in the legal structure. An inadequate legal structure in terms of rule enforcement can undermine government authority and reinforce a culture of non-compliance with the law. Therefore, an in-depth evaluation of the legal structure and supervision mechanism is needed to address the illegal mining problem in Buduran Village. Improvements in the licensing system, increased supervision, and strict law enforcement are important steps to prevent similar problems from recurring in the future. Legal culture in the local community plays a crucial role in understanding the phenomenon of illegal mining. In Buduran Village, brick mining is often seen as a vital source of income for the majority of the community. This view reflects the existence of social or economic norms at the local level that influence perceptions of the legality and morality of illegal mining activities. In some cases, economic factors can be the main reason why communities choose to engage in illegal activities, despite knowing the associated legal risks. It should be understood that in many communities, especially in rural or urban areas with vulnerable economies, illegal activities such as mining are often considered the best option or the only source of income available. Economic factors, such as low income levels, lack of formal employment, and difficult access to business capital, can encourage people to seek alternative livelihoods through illegal activities such as unlicensed mining.

Furthermore, the prevailing legal culture in local communities can also influence how they perceive and respond to the rule of law. If there are customs or traditions that support or even condone illegal practices, then law enforcement efforts will face greater challenges. In addition, a lack of

⁵ Putri, M. K. P., Ashari, D. A., & Pratama, R. D. (2024). Aksentuasi Penegakan Hukum Terhadap Kejahatan Mafia Tambang Melalui Penerapan Sistem Interoperabilitas Dalam Mendorong Kewenangan Otonomi Daerah Yang Berkeadilan. *Journal of Studia Legalia*, 5(02).

understanding of legal rights and obligations and low awareness of the importance of environmental conservation can also exacerbate the situation. Therefore, in addressing the issue of illegal mining, it is important to not only pay attention to formal legal aspects, but also take into account the cultural and economic factors that influence the behavior of local communities. A holistic and community-based approach is needed to address the root causes of this problem, including efforts to raise legal awareness, provide sustainable economic alternatives, and strengthen the relationship between the government, communities and other relevant parties.

By considering these three elements holistically, it can be concluded that the problem of illegal brick mining in Buduran Village is a complex and multidimensional issue. This kind of problem cannot be solved with a simple or one-dimensional approach because it involves various factors that are interrelated and influence each other. First of all, the legal and regulatory aspects need to be carefully considered. Although there are laws and regulations governing mineral mining and environmental protection, the lack of implementation and supervision means that illegal activities can still occur. Therefore, strict and consistent law enforcement is needed to prevent violations that are detrimental to the environment and society. Second, the existing legal structure or legal institutions also need to be evaluated in depth.⁶

The existence of illegal mining that has been operating without official licenses for a long time indicates a failure in the licensing and supervision system that should be carried out by local governments and related agencies. These shortcomings in the legal structure allow illegal activities to take place without significant obstacles. In addition, it is also important to consider cultural and social factors in local communities. Brick mining is often considered an important source of income for most communities, especially in rural areas. This view reflects the existence of social or economic norms at the local level that influence the perception of illegal activities. Therefore, efforts to change the mindset and behavior of the community regarding illegal mining is also a crucial step in solving this problem. Thus, addressing the issue of illegal brick mining in Buduran Village requires a holistic and integrated approach, involving the active participation of various related parties, such as the local government, law enforcement officials, NGOs and the local community. Through strong cooperation and joint efforts, it is hoped that a sustainable and fair solution can be found for all parties involved, and prevent similar problems from recurring in the future.

2. Law Violations in Arosbaya Illegal Mining

The illegal brick mining that has been taking place in Arosbaya since 2000 is a complex phenomenon that has serious impacts on various aspects of life. This activity is carried out by the local community in a traditional manner without clear licensing and supervision from the government, indicating a

⁶ Pratama, A. I., Alfariki, S. W., Diana, I., Hasibuan, T. H., & Fata, I. (2025). Politik Hukum dalam Penegakan Hukum terhadap Ancaman Ilegal Fishing di Perairan Indonesia Menurut Lawrence M. Friedman. *Jurnal Tana Mana*, 6(1), 137-152.

failure in the system of regulation and supervision of such mining. Illegal mining in Arosbaya is not only an ordinary violation of the law, but also has significant potential criminal consequences in accordance with the provisions of Law Number 3 of 2021 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining. In this legal framework, unlicensed mining activities are regulated as actions that can be subject to criminal sanctions.

According to the law, perpetrators of illegal mining are subject to criminal sanctions in the form of imprisonment with a maximum detention period of 5 years and a fine of up to Rp100,000,000,000. The application of the provisions of Law Number 3 of 2021 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining can be directly linked to the perpetrators of illegal brick mining in Arosbaya. This is because in the industrial process of making bricks, both traditionally and modernly, it still requires mining activities to take clay which is the main ingredient in making bricks. Therefore, the perpetrators of illegal brick mining can be charged with these legal provisions. Not only that, brick mining activities also carry a serious risk of environmental pollution. The clay extracted from mining can result in environmental damage and pollution of land, water and air.

This risk of environmental pollution can also be charged under Law Number 32 of 2009 concerning the environment. Thus, illegal brick mining in Arosbaya is not only a legal issue, but also closely related to environmental and sustainability issues. Decisive and holistic action is needed from the government and various related parties to deal with this problem effectively, including strong law enforcement, community education on the importance of environmental sustainability, and sustainable community economic empowerment

Criminal actions related to illegal mining do not only apply when the activity is taking place, but can also be applied to violations that occurred in the past, if considering that in criminal acts the Retroactive principle applies, meaning that illegal mining perpetrators who have carried out illegal activities in the past can still be prosecuted as long as they have not passed the expiration period. This expiration period is the period of time in which a person suspected of committing a criminal offense can be prosecuted. In the context of illegal mining, the expiry period is important because it determines the time limit within which legal proceedings can be brought against perpetrators. If the expiration period has passed, the right to prosecute the criminal is forfeited, even if evidence of the offense still exists. So basically every illegal mining perpetrator in Arosbaya even though they have stopped illegal mining activities can still be subject to criminal sanctions if they have not passed the expiration period, the expiration period itself is regulated in Article 78 of the Criminal Code which states that if the criminal provisions are more than 3 years in prison, the expiration period is 12 years, in this case illegal mining perpetrators who carry out illegal mining activities for the past 12 years can still be charged with Law Number 3 of 2021 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining, considering that the criminal provisions in the law are more than 3 years.

Such criminal provisions can be aimed at providing a deterrent effect on perpetrators of illegal mining, besides that from a theoretical point of view, criminal acts are considered as issues related to human values and are often seen as deep social problems. According to the views of legal experts such as Benedict S. Alper, crime can even be considered as the oldest social problem faced by mankind. therefore it deserves to be dealt with and considering that the application of criminal law and the provision of sanctions is part of the effort to overcome crime in society. It aims to prevent unlawful behavior and maintain public order.⁷

The illegal mining of bricks in Arosbaya requires strict law enforcement action because it is a criminal offense, especially if the expiration period has not expired. However, it should be noted that currently illegal mining activities in Arosbaya have been stopped by the surrounding community and have been turned into a tourist area known as Bukit Arosbaya. This raises the question of whether a Restorative Justice approach could be a relevant consideration in handling this case. Restorative Justice is a legal system that aims to restore the welfare of victims, perpetrators, and communities affected by crime.⁸ This approach also aims to prevent further offenses or crimes from occurring.

In the context of illegal mining in Arosbaya, it can be said that the main victims are the environment that has been damaged as a result of illegal mining activities, as well as the community that may have social and economic impacts. If we refer to Law No. 32 of 2009 concerning Environmental Protection and Management, it regulates the restoration of environmental functions. Article 54 paragraph (1) states that every person who pollutes and/or damages the environment is obliged to restore environmental functions. Therefore, the perpetrators of illegal mining are obliged to be responsible for restoring the environmental conditions damaged by their actions. Thus, in the context of turning illegal mining into a tourist attraction, the Restorative Justice approach can be a relevant consideration. Through this approach, perpetrators of illegal mining can be given the opportunity to repair the damage they have caused, be it by carrying out environmental restoration, compensating victims, or engaging in recovery activities for affected communities. This can be a constructive step in achieving holistic justice and sustainable recovery for all parties involved.

CONCLUSSION

Overall, addressing the issue of illegal mining in Buduran Village, Arosbaya Sub-district, Bangkalan Regency, East Java, requires a comprehensive and multifaceted approach. The issue reflects the complexity between people's economic activities, laws and regulations, and environmental

⁷ J.E.Sahetapy, 1979, *Kausa Kejahatan*, Pusat Studi Kriminologi Fakultas Hukum Unair, Surabaya.

⁸ Marjudin Djafar; Tofik Yanuar Chandra; Hedwig Adiando Mau. "Kewenangan Penuntut Umum Selaku Dominus Litis Dalam Penghentian Penuntutan Berdasarkan Keadilan Restoratif". *Jurnal Sosial dan Budaya Syar-I*, Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta. (2022)

protection. First of all, stricter supervision and law enforcement are needed to prevent and crack down on illegal mining activities. This involves improving the capacity and independence of law enforcement officials, as well as increasing public legal awareness. In addition, there is a need to improve legal structures and legal culture that support compliance with the law and environmental protection. The government also needs to strengthen cooperation among various stakeholders, including local governments, law enforcement officials, NGOs and local communities, to find sustainable and equitable solutions. Thus, only through a holistic and integrated approach, supported by active participation from all parties, can the problem of illegal mining be effectively addressed to realize social justice, environmental sustainability and overall community welfare.

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