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Law Enforcement Against Perpetrators of Unlicensed Gold Mining Crime in Sangihe Islands

Tony Budi Susetyo^{1*}, Bahrul Amiq², Wahyu Prawesthi³

¹tonybudhi@gmail.com, ²bachrulamiq@unesa.ac.id, ³wahyu.prawesthi@unitomo.ac.id

^{1,3}Universitas Dr. Soetomo Surabaya, ²Universitas Negeri Surabaya

*Corresponding Author: Tony Budi Susetyo

Email: tonybudhi@gmail.com

ABSTRACT

12 Law No. 4/2009 on Minerals and Coal prohibits unlicensed gold mining activities because they have a big potential impact on environmental damage. Therefore, strict law enforcement is needed against humans who are not aware of environmental damage. The main problem 10 in this research is the criminal provisions and law enforcement against perpetrators of unlicensed gold mining in the jurisdiction of the Sangihe Islands Police, North Sulawesi. The 10 objective of this research is to find out the law enforcement process against perpetrators of 20 unlicensed gold mining crimes in the jurisdiction of the Sangihe Islands. The approach method used in this research is the sociological juridical approach method. The juridical sociological approach is a research approach that uses legal aspects (legislation and facts in the field) related to the subject matter to be discussed, associated with the reality in the field or examines the positive law of an object of research and sees the practices that occur there. There are many mining businesses in various regions in Indonesia that are managed by local communities. Unfortunately, although there are national regulations that regulate the mining bus- 25 sses, there are still very many mines managed by the community that have the status of illegal mining because they do not have a license, either a Special Mining Business License (IUPK) or other permits.

Keywords: Crime, Law Enforcement, Unlicensed Gold Mining

INTRODUCTION

¹² Indonesia is a country with abundance of natural resources, one of it is mining which includes oil and gas, coal, gold, and others. The 1945 Constitution of Republic Indonesia Article 33 Paragraph 3 stipulates that the land, water and natural resources contained therein shall be under the control of the state and shall be used for the prosperity of the community.¹ This leads to the development of national natural resources, which are governed by the government for the benefit of the populace.

This natural resources are used for providing benefits for humans. However, humans certainly cannot arbitrarily conduct the bad management, because in addition to its use, the environmental factors are become a concern since gold mining activities without a license (PETI) have a major impact on environmental damage. Based on this phenomena, strict law enforcement is needed against humans who do not pay attention to environmental damage. Moreover, environment is very influential on the realization of a healthy and safe life.²

Based on the regulation in Indonesia, a person or legal entity is prohibited from managing natural resources (SDA), including mineral and coal mining, except with a license or work contract.³ In reality, there are many violations that occur, including mining without a license. This emphasizes that petroleum and other mining goods can only be controlled by State for the prosperity of its citizens and for national development. In addition, national development is conducted equitably with a planning model that determines the main priorities in the implementation of development in the political and security sector. Moreover, it accompanied by development in the economic sector to meet the livelihood of the citizens, which in fact raises various new problems that need to be resolved urgently.⁴

Mining is part or all stages of mineral or coal management and exploitation activities from preparation stage, extraction process, production, transportation, sales, to post-mining and reclamation activities.⁵ The mining sector in Indonesia has the potential to earn the most foreign exchange. Unfortunately, the existence of mining business activities in Indonesia has become problem that is debated by

¹ Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI), "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (Jakarta, 1945), <https://www.dpr.go.id/jdih/uu1945>.

² Sri Wahyuni, *Hukum Lingkungan* (Pekanbaru: Forum Kerakyatan, 2016).

³ Ira Fadilla Rohmadanti, Febriansyah Ramadhan, and Ilham Dwi Rafiqi, "Disharmony of Domestic Refining Provisions for Mineral and Coal in Indonesian Laws and Regulations," *Pandecta Research Law Journal* 17, no. 1 (July 4, 2022): 1–7, <https://doi.org/10.15294/pandecta.v17i1.31236>.

⁴ Marjan Setiawan, "Penegakan Hukum Terhadap Tindak Pidana Eksplorasi Dan Eksploitasi Minyak Dan Gas Bumi (Studi Pada Pengadilan Negeri Blora)" (Universitas Negeri Semarang, 2013).

⁵ Nurul Listiyani, M. Yasir Said, and Afif Khalid, "Strengthening Reclamation Obligation through Mining Law Reform: Indonesian Experience," *Resources* 12, no. 5 (April 28, 2023): 56, <https://doi.org/10.3390/resources12050056>.

various groups, due to the dilemma that arises between the comprehensive utilization of resources and the impacts caused by mining business activities. Currently, the State places more emphasis on resource consumption and pays less attention to potential effects of this mining industry on the environment and social that require the optimization of policy for this sector.⁶ This is necessary because it can cause imbalances in the ecosystem and the mining world.⁷ The public's negative perspective on mining business in Indonesia is due to the mining business that conducted without a license and does not meet the requirements in accordance with applicable regulations.

Any type of mining activity conducted by community or companies/business entities without a license is referred to as unlicensed mining.⁸ Then, legal and illegal do not focus on the absence of a permit, because illegal mining is not only defined by mining without a permit, even with a permit, illegal mining can still occur as regulated in the applicable law. Illegal mining does not only focus on violations of mining regulations, but also other regulations that are still related to mining, such as environmental and forestry regulations.⁹ Mining that conducted in areas that have the potential to damage the environment and other prohibited areas such as protected forests is also included in Illegal mining.¹⁰ In many regions in Indonesia, there are many mining businesses managed by local communities. Unfortunately, although there are national regulations governing the mining business, there are still very many mines managed by community that considered as illegal mining due to the absence of a permit, called Special Mining Business License (IUPK) or other permits.

One example is the case handled by North Sulawesi Regional Police Sangihe Islands with the suspect Marvel Dicky Makagansa. The chronology is a criminal case of committing or instructing to commit or participating in committing or assisting by providing opportunities or facilities to conduct a gold mining business without being equipped with a Special Mining Business License (IUPK) document. This case is strongly suspected based on sufficient evidence to have been committed by the suspect MARVEL DICKY MAKAGANSA since March 2020. He hired daily workers to build a base camp (temporary residence for workers), kitchen, toilets and other facilities up to loading heavy equipment excavators and dredging/

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⁶ Juliana Segura-Salazar and Luis Marcelo Tavares, "Sustainability in Minerals Industry: Seeking a Consensus on Its Meaning," *Sustainability* 10, no. 5 (2018): 14–29, <https://doi.org/10.3390/su10051429>.

⁷ DR. H. Salim, *Hukum Pertambangan Di Indonesia* (Jakarta: PT Raja Grafindo Persada, 2014).

⁸ Yudha, Subekti, and Noenik Soekorini, "Criminal Law Enforcement against Perpetrators of Illegal Mining in Sudadi Village, Kabuh, Jombang," *IUS POSITUM: Journal of Law Theory and Enforcement* 2(1), 1 (2023): 57–67, <https://doi.org/10.56943/jlte.v2i1.265>.

⁹ Kurniawan Daeli and Rakhmat Bowo Suharto, "Roles And Responsibilities Investigator In Investigation of Illegal Mining In Society Mining for Environmental Sustainability," *Jurnal Diklat Hukum* 1, no. 4 (2018): 997–1002.

¹⁰ Gregory P Asner and Raul Tupayachi, "Accelerated Losses of Protected Forests from Gold Mining in the Peruvian Amazon," *Environmental Research Letters* 12, no. 9 (September 1, 2016): 094004, <https://doi.org/10.1088/1748-9326/aa7dab>.

excavating soil. Unfortunately, the mining activities have not been completed in processing and refining stage. On Thursday, May 28th, 2020, the workers working at mining location owned by witness Marvel Dicky Makagansa were secured by Police Officers at a mining location called Entanah Mahamu Kampung Bowone, South Tabukan. This location has been designated by Government of Republic Indonesia as a Mining Business Area (WUP) or Contract of Work Area (KK), in accordance with Contract of Work Approval Letter Number : B. 143 / Pres / 3 / 1997 and Decree Number: 2511 / 30 / DJM / 2009 which is valid for 30 years until 2027. The actions of the suspect MARVEL DICKY MAKAGANSA as described above violate the provisions as referred to in Article 158 Subs Article 160 of Law of Republic Indonesia No. 4/2009 Jo Article 55 paragraph (1) ke-1e KUHP or Article 158 of Law of Republic Indonesia No. 4/2009 Jo Article 55 paragraph (1) ke-1e KUHP Jo Article 53 KUHP.

Based on the case examples above, these community mining activities tend to be conducted without considering the negative impacts that can occur, because these activities are conducted not in accordance with the proper procedures and adequate and supportive facilities. This condition happens because of the lack of knowledge and capital owned by people who conduct these illegal mining activities. Based on above arguments, the researchers are interested in conducting research with the title "Law Enforcement Against Perpetrators of Unlicensed Gold Mining Crime in Sangihe Islands." Furthermore, the objective of this research is to identify the law enforcement process against the perpetrators of unlicensed gold mining in legal area of Sangihe Islands.

RESEARCH METHODOLOGY

This research is sociological or empirical legal research because in this case the researcher directly observes what situation occurs in society. In addition, this research is also supported by various literature sources. Empirical legal research is research that combines law with real human behavior.¹¹ When this simple formulation can be used as a guide, the scope of empirical legal research is the degree of legal effectiveness.

The approach method used in this research is a qualitative approach through observation, interview or review of data. The purpose of qualitative research is to describe the empirical reality behind the phenomenon in depth, detail and thoroughly.¹² In this case, researchers can get accurate data as they communicate

¹¹ Jason Chin and Kathryn Zeiler, "Replicability in Empirical Legal Research," *Annual Review of Law and Social Science* 17 (2021): 239–60, <https://doi.org/10.1111/jols.12342>.

¹² Gadang Wardono, Anoesyirwan Moeins, and Widodo Sunaryo, "The Influence of Organizational Climate, OCB and Employee Engagement with Job Satisfaction as an Intervening Variable," *UTSAHA (Journal of Entrepreneurship)* 1, no. 3 (2022): 44–54.

directly with informants. In addition, researchers also express the phenomena that occur by developing concepts and collecting existing social facts.

RESULT AND DISCUSSION

The law enforcement of the crime of unlicensed gold mining in Entanah Mahamu area of Bowone, Tabukan Selatan Central Islands, Sangihe has been processed by Sangihe Islands Police. The mining business is not provided with a Special Mining Business License (IUPK) document which is strongly suspected based on sufficient evidence to have been conducted by Marvel Dicky Makagansa since March 2020. He hired daily workers to build a base camp (temporary residence for workers), a kitchen, toilets and other facilities to load the heavy equipment and excavating the land. However, the mining activities have not been completed in processing and refining. On Thursday, May 28, 2020, workers who work at mining location owned by the witness Marvel Dicky Makagansa were secured by Police Officers at a mining location called Entanah Mahamu Kampung Bowone, Central South Tabukan Subdistrict. The location has been declared by Government of Republic Indonesia as a Mining Business Area (WUP) or Contract of Work Area (KK) based on Contract of Work Approval Letter Number: B.143/Pres/3/1997 and Decree Number: 2511/30/DJM/2009 which is valid for 30 years until 2027 in the jurisdiction of Sangihe Islands Police.

Law Enforcement Process Against Perpetrators of Unlicensed Gold Mining in Sangihe Islands

Around February until 31 March 2020, the Police of Sangihe Islands along with Sangihe Islands Regional Government, including witness Ferdinandus Abbas, SH who served as Intelkam Unit, have conducted socialization to miners, financiers and landowners who conduct the gold mining activities without permission. The activities including both those who conducted mining manually and use heavy equipment including the suspect Marvel Dicky Makagansa. Therefore, since April 1, 2020, the legal action has begun against miners, financiers and landowners who ignore to mining activities without permission, in Bowone Village area, Central Tabukan Selatan Subdistrict and its surrounding areas.

1. Around the end of March 2020, the suspect Marvel Dicky Makagansa came to the witness Yalpius Lambaunaung at his residence in Bentung Village, South Tabukan Subdistrict, Sangihe Island. He offered the witness to build a post consisting of 2 rooms and several facilities that he would use for gold mining activities on his property located at entanah mahamu, Bowone, Central South Tabukan, Sangihe Island. The work is including to build a base camp or workers' residence, kitchen, toilet, and other facilities with a work wage of IDR. 125,000 (one hundred and twenty-five thousand rupiahs) per day. Then, at the beginning of April 2020, the witness started working at the mining site.

2. Around the beginning of April 2020, the suspect Marvel Dicky Makagansa also contacted the witness Romario Singa (a suspect in a separate case file) who is still related to the suspect. He was asked to become a supervisor at excavating soil using heavy equipment to conduct a mining business which located in Entanah Mahamu, Bowone, Tabukan. He was providing a work wage of IDR. 150.000 (one hundred and fifty thousand rupiah) per day from the suspect. Then, the witness Romario Singa came to the location and started working in April 2020. Moreover, on the instruction of the suspect Marvel Dicky Makagansa, the witness Romario Singa was asked to find a heavy equipment operator who would be used to excavate the soil at the mining location. Then, the witness Romario Singa contacted the witness Febrianto Lalenoh, the witness Alfian Ratu and the witness Henrawan Potabuga (the three have been made suspects in a separate case file) with an wages agreement of IDR. 150,000 per day.
3. On Thursday, April 9, 2020 and Friday, April 10, 2020, Witness Yalpius Lambanaung and a man named Gunawan (currently unknown whereabouts) were instructed by the suspect Marvel Dicky Makagansa to bring in 1 (one) unit of orange hitachi brand excavator to entanah mahamu mining location and 1 (one) unit of yellow Komatsu brand excavator from Pananaru Ferry port. The excavator was transported using a tronton vehicle. After arriving at the mining location, 2 (two) heavy equipment is operated by their operators to conduct the excavation and dredging activities at the location. Few days later, the witness Febrianto Lalenoh who came from Manado started to work as a helper of heavy equipment at the mining site.
4. After about 2 (two) weeks of working at the mining location, Witness Yalpius Lambanaung was instructed by the suspect Marvel Dicky Makagansa through Gunawan to recruit more people to be employed as daily laborers. The daily workers are recruited to build facilities that would be used for gold mining activities. Then, the witness Yalpius Lambanaung recruited several local residents including the witness Lukman Jonathan and Muslihin Manoppo with a wage of IDR. 125.000 (one hundred twenty five thousand rupiah) per day. In addition, the daily laborers who worked at the mining location included Witness Yalpius Lambanaung, Lukman Jonathan, Muslihin Manoppo and 1 (one) person from outside the area, called Witness Tri Bagus Sebangkit who was assigned to make facilities that would be used for gold mining activities. The facilities are including 1 (one) base camp building (temporary residence for workers) made of wood which was divided into 3 (three) sleeping cubicles, 1 (one) post building which functions as a temporary residence for workers, 1 (one) kitchen building unit used for cooking

- food for mine workers, building a limestone storage area in front of the base camp, a fuel storage area used for excavator vehicles, 1 (one) building where the generator engine is used for lighting and a water reservoir for water barrels, which was conducted until May 15, 2020.
5. In April 2020, the suspect Marvel Dicky Makagansa arranged a meeting between himself and the community leaders of Bowone Village at the residence of Witness Wilmar Menangkoda. The meeting was attended by Witness Wilmar Menangkoda as the Head of Bowone Village, Witness Alfons Ahar, witness Alfret Sumenda and the suspect. During the meeting, the suspect explained that he had a certificate related to the processing of mining licenses and would help the mining community to process permits at the entanah mahamu location.
 6. On April 24, 2020, Suspect Marvel Dicky Makagansa rented 2 (two) units of heavy equipment of yellow HYUNDAI brand from Witness Mario Soebono in accordance with the cooperation agreement signed by the suspect, which was facilitated by Witness Valentino Christian Tumbel as Branch Manager of UNIQIP Manado Dealer that engaged in the sale of heavy equipment (HYUNDAI). Then, the witness Mario Soebono contacted Witness Harisanto Pasa as Branch Manager of PT Christine Lines in Bitung to rent an LCT Ship at the company to transport the heavy equipment. After there was an agreement between the witness Mario Soebono and the witness Harisanto Pasa regarding the price, the 2 units of heavy equipment were brought to Port of Samudera Bitung and loaded on the LCT KM CALVIN 08 with a load of 80 (eighty) tons of lime sacks, 1 (one) unit of yellow hyundai brand heavy equipment and 1 (one) unit of Hitachi brand heavy equipment which the suspect Marvel Dicky Makagansa recognized as his own. Then, the total of heavy equipment loaded on KM CALVIN 08 ship amounted to 4 (four) units. According to ship's load list, apart from heavy equipment and lime, there were also 3 (three) people listed in the passenger list, including Witness Alfian Ratu and Witness Henrawan Potabuga as heavy equipment operators (helper). On April 28, 2020, the LCT KM.CALVIN 08 sailed from Bitung Port and arrived at Pananaru Ferry Port, Sangihe Islands on April 29, 2020. Furthermore, on Thursday, April 30, 2020 until Saturday, May 02, 2020, the lime cargo was unloaded and stored at the Pananaru Ferry port warehouse. On Saturday, May 02, 2020 at approximately 15.30 wita, a blue LCT ship by the name of CALVIN 08 with a cargo of 4 (four) units of heavy equipment excavators departed from Pananaru Ferry port to Entanah Mahamu beach, Bowone village, Central South Tabukan sub-district arrived at Entana Mahamu beach location on Sunday, May 03, 2020 at approximately 02.00 wita. Then, 4 (four) units of heavy equipment were unloaded and brought into mining location on

the land owned by the suspect Marvel Dicky Makagansa with 12 large tarpaulins, 19 (Nineteen) blue gallons and 1 (one) black gallon containing hard water which were transported and brought into the mining location by casual workers including the witness Yalpius Lambanaung. Meanwhile, for the cargo of lime unloaded at Pananaru Ferry port, according to the instructions of suspect Marvel Dicky Makagansa to Gunawan and Witness Alpius Lambanaung, it was transported to entanah Mahamu mining site in Bowone Village, South Tabukan through several units of truck vehicles which were conducted from Monday, May 04, 2020 to Saturday, May 9, 2020.

7. On Sunday, May 03, 2020, Witness WILMAR MENANGKODA and Witness GRACE PARERA came to the Mahamu entanah mining location in Bowone Village with the Covid-19 Management task team of Central South Tabukan District, since there was information that there were travelers in Mahamu Entanah. After being visited, it was found that at Entanah Mahamu location, precisely at the Base Camp located at the mining site, there were 4 (four) new travelers found. After the interrogation process, it was revealed that 2 (two) of witnesses named Alfian Ratu and Hendrawan Potabuga had just traveled from Manado and Kotamabagu. Then, Covid-19 management officers will conduct the procedures according to Covid handling protocols to conduct the Independent Quarantine at that location. Considering that the base camp location is far from community residence, the management team agreed for the witnesses to self-quarantine themselves at the base camp where they temporarily live while monitoring by the management team. At that time, the witness saw 6 units of heavy equipment at the location.
8. Since May 21, 2020, Witness Alfian Ratu, Witness Henrawan Potabuga with the witness Febrianto Lalenoh supervised by Witness Romario Singa conduct the excavation and dredging activities at the location of the land owned by Marvel Dicky Makagansa until May 26, 2020.
9. On Thursday, May 28, 2020, Sangihe Islands Police officers visited Entanah Mahamu mining site and found the following evidences:
 - a. Empty land that has been dredged/excavated using heavy equipment excavators
 - b. 1 (one) base camp building (temporary residence of workers) made of wood and zinc roof which divided into 3 (three) sleeping rooms and 1 (one) kitchen building unit that used for cooking food for mine workers, with a size of 8m x 1.5m
 - c. There is 1 (one) building made of wood and zinc roof with a size of 6 m x 2 m which is used as a kitchen where workers cook near with the base camp

- d. There is a pile of white sacks containing lime powder covered with a tarpaulin with a pile size of 7 m x 7 m in front of the base camp
- e. Under the base camp, there are 20 (twenty) blue gallons containing liquid chemicals suspected of being H₂O₂ and 1 (one) white gallon containing liquid chemicals suspected of acid
- f. On the ceiling of the base camp, 6 (six) rolls of netting were found
- g. In front of the right side of the base camp, a pile of white sacks containing lime and 12 (twelve) large blue tarpaulins and 2 (two) medium-sized tarpaulins covered with tarpaulins were found
- h. There is a water filtration basin covered with a net with a size of 5 m x 3 m
- i. There is a building made of wood with a zinc roof with a size of 2 m x 2 m which is used as a place for the generator engine.
- j. At the back of kitchen, there is 1 (one) yellow barrel which is used as a water reservoir for workers
- k. On the right side of the kitchen, there is 1 (one) bathroom measuring 3 m x 1 m for workers
- l. There is a fuel oil storage area covered with a blue tarpaulin in which there were 3 (three) yellow fuel storage barrels and 9 (nine) gallons of bio diesel
- m. There are 5 (five) units of heavy equipment excavators consisting of 3 (three) Hyundai brand units, 1 (one) Hitachi brand unit and 1 (one) brand unit that parked around the base camp location
- n. There is 1 (one) building made of wood with a zinc roof measuring 4 m x 3 m which functions as a temporary residence for workers. Moreover, there is also 1 (one) storage area for generator engines measuring 2m x 2.5 m.

In addition to the tools or items mentioned above, several workers were identified. According to witnesses' examination who were also recognized by the suspect Marvel Dicky, the workers were gathered at the base camp, in the kitchen and around the crime scene (TKP). The name of the workers are as follows:

- a. Romario Christian Singa
- b. Hendrawan Potabuga
- c. Alfian Ratu
- d. Febrianto Lalenoh
- e. Jonathan Lukman
- f. Muslihin Manoppo
- g. Tugas Tri Bagus Sebangkit
- h. Yalpius Lambanaung

According to the examination of witnesses who were also admitted by the suspect Marvel Dicky Makagansa, it was found that the witnesses found at the crime scene were people that hired by the suspect. Moreover, the facilities found at the crime scene as mentioned above were built based on instruction of the suspect that will be used for gold mining activities.

10. The suspect Marvel Dicky Makagansa did not have an IUPK in conducting mining business activities at entanah mahamu mining location in Bowone Village, Central South Tabukan Sub-District. He also admitted that the presence of heavy equipment and items found at entanah mahamu mining location including the evidence that had been confiscated would all be used for gold mining activities. After the issuance of an IUPK from the government with the suspect statement that he loaded the heavy equipment and conducted the dredging / excavation activities at location along with the loaded materials that would be used in gold mining business activities because:
 - a. The recommendation from Regional House of Representatives of Sangihe Islands explained that they authorized the mining activities. This statement has been denied by Witness Ronal Lumiu that Sangihe Islands Regency Legislative Council never issued the recommendation referred to by the suspect
 - b. There is communication established with the leaseholder and the facilitator is the Provincial Energy and Mineral Resources Office, specifically PT. Tambang Mas Sangihe. Unfortunately, the suspect has never met directly with the leaseholder, but only the Provincial Energy and Mineral Resources Office. According to witness Jimmy Edward Mokolensang, ST, MT, there was only verbal discussion with the leaseholder
 - c. The suspect has a certificate of license issued by the Licensing Office of North Sulawesi Province
 - d. There were 2 (two) meetings with the Head of Sangihe Islands Police, that was facilitated by the Head of Narcotics Unit of Sangihe Islands Police, Mr. Lumandung. During the meeting, the suspect reported to the police chief about the plan for mining activities in Tanah mahamu, Bowone village and started with land clearing process. Then Mr. Kapolres asked what kind of cleaning process, the suspect answered he planned to conduct the gold mining that will begin with cleaning process. Moreover, Mr. Kapolres explains that the process of exploration and exploitation activities can be conducted after the suspect get the permission from the government. Regarding the preparation activities (land clearing and construction of limited facilities as above (for more

details of the suspect's discussion, when the supporting evidence is needed, the suspect will present it).

Thus, the actions of the suspect Marvel Dicky Makagansa are clearly part of the act of conducting an unlicensed gold mining business since it is conducted in the area included in the contract between the Government of Republic Indonesia and PT. Tambang Mas Sangihe. In addition, mining activities in the contract of work area conducted by the suspect Marvel Dicky Makagansa as in the case analysis described above, have violated the provisions and can be subject to criminal sanctions as regulated and punishable by Article 158 of Law No. 4/2009 concerning Mineral and Coal Mining which has been amended by Law Jo Article 55 paragraph (1) ke-1e Criminal Code Jo Article 55 paragraph (1) ke-2e Criminal Code Jo Article 56 ke-2e Criminal Code.

Article 158 of Indonesian Law No. 4/2009 on Mineral and Coal Mining stated that "Every person who conducts mining business without an IUP, IPR or IUPK as referred to in Article 37, Article 7 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 penalty of IDR. 10,000,000,000 (ten billion rupiah)." Meanwhile, Article 55 paragraph (1) to 1e of the Indonesian Penal Code The person who commits, authorizes to commit or participates in the act. Article 55 paragraph (1) 2e of Criminal Code states that Person who by means of gift, agreement, abuse of power or influence, force or threat or deceit or by providing opportunity effort or information intentionally induces to commit an act. Furthermore, Article 56-2e of Indonesian Penal Code stipulates as Punishable as an accomplice to a crime; 2nd. Those who intentionally provide opportunities, means or information to commit a crime.

Based on case analysis and judicial analysis, it is concluded that the suspect Marvel Dicky Makagansa has been proven to have committed a criminal offense as referred to in Article 158 of Law No. 4/2009 Jo Article 55 paragraph (1) ke-1e KUHP Jo 55 paragraph (1) ke-2e KUHP Jo Article 56 ke-2e KUHP, by committing or instructing to commit or providing assistance by providing opportunities or facilities to conduct the gold mining activities without being equipped with an IUPK at Entanah Mahamu land location in Bowone Village, Central South Tabukan Subdistrict. The land has been determined by the government of Republic Indonesia as a Mining Business Area (WUP) or Contract of Work Area (KK), in accordance with the Contract of Approval Letter Number: B.143/Pres/3/1997 and Decree Number: 2511/30/DJM/2009 which is valid for 30 years until 2027. The suspect's actions have been conducted since March 2020 when he hired workers to build a base camp (temporary residence for workers), kitchen, toilets and other facilities until he loaded the heavy equipment to excavate the land. However, the mining activities have not been completed at processing and refining where on Thursday,

May 28, 2020, the workers who work at mining location owned by witness Marvel Dicky Makagansa were secured by Police Officers.

CONCLUSION

The Law Enforcement Process against ¹⁷ the perpetrators of Unlicensed Gold Mining in Legal Area of Sangihe Islands Resort was completed by Ditreskrim⁷s Polda North Sulawesi Sangihe Islands with the following actions: conducting the first action at the crime scene (TPTKP), examining the crime scene, summoning the suspect, arresting the suspect, detention, confiscation of evidence, witness statement, suspect statement, and evidence. Based on case analysis, it is concluded that the ³¹ suspect Marvel Dicky Makagansa has been proven to have committed the crime as referred to in Article 158 of Law No. 4/2009 jo Article 55 Paragraph 1 Criminal Code jo 55 Paragraph 1 Criminal Code jo Article 56 Criminal Code.

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