



## Law enforcement against mineral and coal mining without permits for environmental protection efforts in west Aceh

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### Abstract

Momordica cymbalaria (Fam.: Cucurbitaceae) vernacularly called as Athalakai in Tamil is an under-utilized, non-cultivated, season-bound vegetable harvested from wild sources. The plant is confined to Virudhunagar district and parts of Tirunelveli, Tenkasi, Thoothukudi, Madurai, and Theni districts of Tamil Nadu and a few parts of Karnataka, Andhra Pradesh, and Telangana. However, Tamil Nadu holds more than 65 percent of the area. The plant prefers well-drained black and red soil with an annual rainfall of at least 5 cm. A good rainfall followed by a dry climate is favourable. Hadda beetle, cotton aphid, and cucurbit fruit fly are the major pests and Yellow Mosaic Virus is found to be the important disease which is carried to subsequent seasons through infected tubers. Interestingly, scorpion nymphs are found to co-exist in large numbers on the tubers in the fields which might be due to the presence of an attractant chemical. Solitary bees such as *Lassioglossum* sp. and *Amegilla* sp. are the major pollinators. The plant is so unexplored and is not given the position of a crop as it is not cultivated. As the plant is in the vague of extinction, researchers need to carry out studies aiming to improve seed viability, enhancing tuber germination and multiplication, developing crop cultivation protocol, and improving fruit shelf-life.

**Keywords:** law enforcement, mining, protection

### Introduction

Indonesia is a country rich in minerals (mines), the minerals contained are in the form of gold, silver, copper, oil and gas, coal and many other natural potentials that can support the development of this country. Minerals are original minerals in their original forms that can be mined for human needs. All of these mining materials are controlled by the state and utilized for the entire Indonesian nation, based on the five precepts in Pancasila as a unified whole, the existence of norms or rules in the provisions according to Article 33 paragraph <sup>[3]</sup> of the 1945 Constitution of the Republic of Indonesia, "Earth and water and the natural wealth contained in in which it is controlled by the state and used for the greatest prosperity of the people.

One of the districts that has mining potential is West Aceh district, West Aceh district has potential for mineral and coal materials such as gold, coal and other rocks. something that has high value and this provides an opportunity for the community and companies to carry out mining activities, with this opportunity due to the existing potential it can become a source of livelihood.

Aceh Qanun Number 2 of 2011 concerning Environmental Management, it is stated in article 18 that reads "The Government of Aceh has the authority to protect and manage the environment which is under its authority in accordance with statutory regulations". Also in Article 23 paragraph <sup>[1]</sup> Every business and/or activity plan that has an impact on the environment must be accompanied by an Environmental Feasibility Document <sup>[2]</sup>. Environmental Feasibility Documents as referred to in paragraph (1) can be in the form of: a. Environmental Impact Analysis. b. Environmental Management Efforts (UKL) and Environmental Monitoring Efforts and c. Environmental Management Statement Letter.

Law No. 3/2020 concerning Minerals and Coal has determined that minerals and coal contained within the jurisdiction of Indonesia are non-renewable natural resources as a gift from God Almighty who has an important role in fulfilling the lives of many people, therefore their management must be controlled by the state to provide real added value to the national economy in an effort to achieve just prosperity and welfare of the people. Article 35 paragraph <sup>[4]</sup> of Law no. 3/2020 concerning Mineral and Coal Mining states that: "The Central Government can delegate the authority to issue Business Permits as referred to in paragraph <sup>[2]</sup> to Provincial Governments in accordance with statutory provisions.

Then related to the regional government's authority in granting mining permits has also been regulated in Article 350 of Law Number 23 of 2014 concerning Regional Government which reads: "Regional Heads are required to provide licensing services in accordance with statutory provisions. In providing licensing services as referred to in paragraph <sup>[1]</sup> the Region shall form a one-stop integrated service unit. companies that carry out mining activities without a permit that cause damage to the surrounding environment, because the mining company is running or carrying out mining activities without following mining procedures so that the impact of these mining activities is damaging to the natural environment. There is also mining carried out by local communities, namely mining using excavators or heavy equipment and do not have permits to carry out mining business so that this results in damage to the environmental area <sup>[1]</sup>.

The problem is where excavations are carried out to obtain mineral and coal resources that are in the area, thus causing damage to the environment which causes disruption to natural ecosystems and surrounding communities. So far, with the damage to the environment in West Aceh, it has

caused legal issues related to the law enforcement process that has been carried out so that damage to the environment continues to occur and this has given rise to legal problems.

### Research Methods

The research methodology used in this research is Study juridical empirical. Empirical juridical studies aim to examine the application of rules or standards in the relevant positive law and its application. This research is oriented towards the legal problems faced and developing legal justifications<sup>[2]</sup>.

This study uses a legislative approach and a conceptual approach, particularly on environmental and environmental items mining, while explaining the significance and ramifications of the topic of law. Approach and conceptual will make a significant contribution to conventional legal studies by explaining the relationship between law and several social phenomena that occur<sup>[3]</sup>. The legal materials in this study are primary legal materials which include: the 1945 Constitution of the Republic of Indonesia, Law no. 32 of 2009 concerning Environmental Protection and Management, Law no. 3 of 2020 concerning Minerals and Coal and the results of interviews with relevant agencies and agencies. Secondary legal materials include books, articles, journals, results of previous research<sup>[4]</sup>.

### Results and Discussion

#### Law Enforcement Against Unlicensed Mining Business Damage Environment Living in the West Aceh

Law enforcement is an effort made to realize a social justice where justice is highly upheld. In another sense, law enforcement is an attempt to realize ideas and legal concepts that the people expect to become reality. Institution Law enforcement in society needs to be enforced as part of a series of legal processes which include lawmakers, law enforcement, judiciary and administration of justice<sup>[5]</sup>.

Law Enforcement is the concrete implementation of law in social life. After law-making is done, the next action is concrete implementation in people's daily lives, this is law enforcement and law enforcement itself is also a process that involves many things<sup>[6]</sup>. Law enforcement is the activity of harmonizing the relationship of values that are described in the principles / views of values that are solid and manifest and attitudes as a series of elaboration of enduring values to create, maintain and maintain social peace that exist in today's society<sup>[7]</sup>.

Concrete law enforcement is the application of positive law in practice as it should be obeyed. Therefore, providing justice in a case means deciding *hum in concreto* in maintaining and guaranteeing the observance of material law by using the procedural method stipulated by formal law<sup>[8]</sup>.

Application of the Law Against Environmental Destruction, the legal basis regarding punishment can be seen in Article 98 paragraph<sup>[1]</sup> of Law Number 32 of 2009 concerning the Protection and Management of the Environment which explains that every person who intentionally commits an act which results in exceeding the water quality standard ambient, water quality standards, seawater quality standards, or environmental damage standard criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah).

Article 98 paragraph<sup>[2]</sup> explains that if the act referred to in paragraph<sup>[1]</sup> results in a person being injured and/or endangering human health, the penalty is imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp. 4,000,000,000.00 (four billion rupiah) and a maximum of Rp. 12,000,000,000.00 (twelve billion rupiah). Article 98 paragraph<sup>[3]</sup> explains that if the act referred to in paragraph<sup>[1]</sup> results in a person being seriously injured or dead, the penalty is imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 5,000,000,000.00 (five billion rupiah) and a maximum of Rp. 15,000,000,000.00 (fifteen billion rupiah).

Article 99 paragraph<sup>[1]</sup> states that any person who due to their negligence causes the ambient water quality standards, water quality standards, sea water quality standards, or environmental damage standard criteria to be exceeded, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 3 (three) years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 3,000,000,000.00 (three billion rupiah).

Article 99 paragraph<sup>[2]</sup> states that if the act referred to in paragraph<sup>[1]</sup> results in a person being injured and/or endangering human health, the criminal shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a fine of at least Rp. . 2,000,000,000.00 (two billion rupiah) and a maximum of Rp. 6,000,000,000.00 (six billion rupiah). Article 99 paragraph<sup>[2]</sup> explains that if the act referred to in paragraph<sup>[1]</sup> results in a person being seriously injured or dead, the penalty is imprisonment for a minimum of 3 (three) years and a maximum of 9 (nine) years and a fine of at least Rp. 3,000,000,000.00 (three billion rupiah) and a maximum of Rp. 9,000,000,000.00 (nine billion rupiah).

Article 112 explains for an authorized official who deliberately does not supervise the compliance of those in charge of a business and/or activity with laws and regulations and environmental permits as referred to in Article 71 and Article 72, resulting in environmental pollution and/or damage resulting in loss of human life, shall be punished with imprisonment for a maximum of 1 (one) year or a fine of a maximum of Rp. 500,000,000.00 (five hundred million rupiahs). Article 116 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management states that if the environmental crime as referred to in paragraph<sup>[1]</sup> is committed by a person based on a work relationship or based on another relationship acting within the agency's scope of work effort, criminal sanctions are imposed on the giver of the order or the leader in the crime regardless of whether the crime is committed individually or jointly.

It is necessary to build a strong commitment among government officials at the central, provincial and district/city levels in providing services and legal protection, especially for economically weak groups as a manifestation of the moral message contained in the preamble and Article 33 paragraph<sup>[3]</sup>, Article 18, Article 18A of the 1945 Constitution. fostering complete integrity in carrying out assigned duties so that the powers conferred by the law and its implementing regulations are carried out humanely and while respecting the dignity and worth of members of the community, even if they belong to a weak economic group . The problem of law enforcement is a universal problem for every country and also in every country it will or has

experienced it, with its own philosophy and way, trying to realize the rule of law in society. Firm action with violence, tight guard, severe punishment, cannot always guarantee the upholding of the law. If the people concerned do not understand the nature of the law which is the guideline, it will definitely hinder law and legal discipline.

### **Impact Damage Environment Consequences of Mineral and Coal Mining without Permission in West Aceh**

Impact of Environmental Damage if it is carried out with mining practices that are as if or not through the application of *good mining practices*, even though in mining exploitation there are technical and environmental rules that must be obeyed. If this is not implemented it will damage and pollute the environment<sup>[9]</sup>. It is known that Mineral and Coal mining in West Aceh itself uses mercury exceeding the limit in the management of minerals and coal. Mercury has even entered the human body, both through the water and through control of the food chain. The mercury levels found reached 18 (eighteen) control per 1 (one) kilogram sample or 36 (thirty six) times the standard<sup>[10]</sup>.

Environmental damage that occurs includes, soil damage, which contains chemicals such as Fe, SO<sub>4</sub>, Mg and Pb which are toxic; b) The threat of landslides that threaten the safety of miners; c) Soil erosion, excavation which has the potential to experience erosion due to the absence of ground cover vegetation; d) Water pollution, the Anahoni River has been directly polluted due to waste containing sulfur (b) and mercury (Hg) and cyanide which contain heavy metals. The flow of the Anahoni River has become cloudy due to the disposal of leftover soaking products, dissolved ponds and dompeng; e) Forests and agricultural land are damaged; f) Pollution of seawater and deep mangrove forest areas And surrounding<sup>[11]</sup>.

In addition, the environmental damage and social burden due to mining without a permit will certainly be borne by the state, such as land restoration through rehabilitation and reclamation<sup>[12]</sup>. Other things will also arise such as the Impact of Social Conflict Until now, mining activities have been a source of various conflicts caused by policy and regulatory uncertainty over land use and property rights, mining people's control, formation and environmental impacts, as well as uncertainty around the livelihoods of local residents in the event of a mine closure<sup>[13]</sup>. Another thing that will happen is Occupational Health, Safety and Security (K3) Impacts Mining activities have a large potential risk if the OHS mechanism is not implemented properly. It can be seen that even though Unlicensed Mining is one of the activities that greatly benefits the community, there are many negative impacts that occur in the future<sup>[14]</sup>. To reduce the risks arising from Mining No \_ Permits are of course the duty of law enforcers to handle them, because they relate to the rules violated by these illegal miners<sup>[15]</sup>.

The speed of population growth, increase in the activity of the industrial sector (micro, small, medium and large), the increase in the rate of urbanization puts pressure on changes in the quantity of surface water sources as raw water which in turn reduces the quality of the water. Water quality in general shows the quality or condition of water associated with an activity or a particular need. Therefore, water quality will differ from one activity to another. Based on the National Water Quality Standards, Appendix PP No. 22 of 2021, what distinguishes between the quality of drinking water, clean water, water for sanitation is the maximum

permissible quality standard for each physical, chemical, biological and radiological parameter. The driving factor (*pressure*) on water quality in West Aceh is the discharge of domestic (fecal waste) and industrial (small and large) wastewater. The pressure on river water quality is closely related to the available wastewater treatment facilities.

### **Efforts Made For Prevent Happening Damage Environment in West Aceh**

Mining without a permit is a very serious problem considering the crime of mining without a permit can damage the environment and threaten the welfare of the surrounding community<sup>[16]</sup>. In law enforcement there are two means of law enforcement that can be carried out by the government, namely preventive measures (supervision) and repressive measures (implementation of sanctions). Preventive Efforts In preventive efforts the emphasis is on eliminating opportunities for crimes to be committed<sup>[17]</sup>. These preventive efforts, namely: a) Conducting legal counseling regarding criminal provisions regarding mining crimes without a permit. b) Conduct socialization regarding Law Number: 3 of 2020 concerning Mineral and Coal Mining. c) Installing banners/pamphlets for each district regarding the dangers of mining activities without a permit. d) Carry out routine supervision and operation of every mining business activity in West Aceh District. Apart from that, repressive efforts can also be carried out. This effort is carried out when mining crimes without permits have occurred in West Aceh Regency, the actions of which are in the form of law enforcement, namely taking firm action against perpetrators of mining crimes without permits and processing them according to applicable law and confiscating tools used in carrying out activities. mining without a permit, both pumps and heavy equipment such as excavators and lowders.

Controlling the rate of deforestation and forest and land degradation by building productive and sustainable land sector-based sustainable livelihood options. The supply chain and value chain approaches for each commodity based on cultivated land are strengthened in order to obtain high economic impacts from interventions in cultivation areas to reduce ecological impacts and pressure on the existence of forest cover and important habitats in West Aceh.

One of the responses made by the government in facing the pressure of land degradation in Aceh is to carry out afforestation and reforestation. In accordance with Government Regulation Number 76 of 2008 concerning Forest Rehabilitation and Reclamation, what is meant by reforestation is an effort to restore critical land outside the forest area to restore land function, while reforestation is an effort to plant forest tree species in damaged forest areas in the form of vacant land, reeds reeds or shrubs to restore forest function.

Efforts to preserve local wisdom in Aceh related to the management of the environment or natural resources more broadly can be seen from the commitment formulation of the Government and the Government of Aceh which is standardized in laws and regulations. implementation rules . Efforts to preserve local wisdom in managing the environment have been built into government structures, both in the form of implementing institutions for additional affairs in the form of regional institutions as well as

mandatory and optional affairs in the administration of government in Aceh and districts/cities. This commitment can be seen in the formation of several special regional institutions according to the special and specific authorities of Aceh which are regulated in laws and regulations down to the districts/cities.

### Conclusion

Law enforcement for mining activities without permits in West Aceh District takes 2 ways, namely persuasive compromise towards micro-scale mining without permits which generally have a weak economic background and low education, middle age to meet the needs of daily life and repressive law enforcement against perpetrators other mining medium scale and long term. The most dominant factor influencing law enforcement on illegal mining is political factors, where the government prioritizes elements of personal interest in relation to mining permits and this becomes an obstacle in carrying out efforts to protect the environment. Furthermore, the factors of apparatus resources, community perception factors, and community culture.

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