



Analysis of law enforcement against illegal rare earth sales in bangka district

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ABSTRACT

Mining in Indonesia is a promising sector, including the management of rare earths, which are mining residues with high selling value. In Bangka Belitung, rare earths mainly come from tin mining residues. Although Government Regulation No. 96 of 2021 has recognized rare earths as one of the five categories of mineral and coal mining that must be managed with a Mining Business License (IUP), specific regulations regarding rare earths have not been discussed in detail. As a result of these regulatory limitations, many entrepreneurs take advantage of legal loopholes to sell rare earths illegally, both inter-city and export. This research aims to examine the specific regulations governing rare earths and uncover the reasons why illegal sellers are reluctant to officially register their companies, particularly in Bangka Belitung. This research uses an empirical juridical method that focuses on applicable laws and regulations to uncover problems in the field, by adhering to normative provisions related to illegal rare earth sales in the Bangka Belitung Islands. Researchers found that several regulations related to rare earths include Law Number 3 of 2020 concerning Mineral and Coal Mining (Minerba Law), Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities, Government Regulation No. 96 of 2021, and MEMR Regulation No. 25 of 2018 which has been updated to Minister of Energy and Mineral Resources Decree Number 301. K/MB.01/MEM.B/2022, which regulates the National Plan for Mineral and Coal Mining for 2022-2027.

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1. Introduction

Mining in Indonesia is a promising business at this time that has a high selling value, as well as many uses for the world both from raw materials or the results of coal mining, metal mining, tin mining and mining residues also still have high selling power (Susanto & Setyowati, 2021). For example, rare earths or commonly known as betnaesite, zircon, monazite, and xenotime elements. In this case, rare earths are widely used in various sectors of mining companies that

use raw materials, which can be found in mining areas, one of which is in Bangka Belitung, because this rare earth is the result of the rest of tin mining (Antomi, 2021).

Rare earth or commonly referred to as 'Rare Earth' has potential in the long term, because of the technology that continues to develop over time (Annisa, 2023). So with this also affects the law enforcement regulations, where the legal regulations in Indonesia itself are still grey, with the holding of this research the author hopes that there will be clarity in accordance with the regulations written and applicable, especially in Indonesia itself (Widodo & Pranadita, 2022). If for now the regulations used or existing are only regulations from Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining, and ESDM Regulation No. 25 of 2018. The determination of the MEMR is contained in 19 December 2022, has established the National Plan for Mineral and Coal Mining for 2022-2027 through the Decree of the Minister of Energy and Mineral Resources Number 301. K/MB.01/MEM.B/2022 ('Ministerial Decree No. 301'). This regulation addresses mineral by-products obtained from the remaining tin ore that has been processed and refined in the Bangka Belitung Islands (DANI, 2024). The government will optimise the use of Coal and minerals by conducting national value-added improvements, including the management and utilisation of rare earths in transmission, storage, and renewable electric vehicles (Untoro, 2023).

Judging from the regulations in Law No. 3 of 2020 concerning Amendments to Law No. 4 of 2009 concerning Mineral and Coal Mining, where rare earth regulations have not been discussed and regulated specifically and in detail (Afifah, 2019). Whereas in this case it is considered urgent, thus the government should be able to make or propose regulations related to rare earth regulations, especially in Bangka Belitung for now. This can be said to be urgent because the implementing regulations of the Minerba Mining Law, including Government Regulation No. 96 of 2021, recognise that rare earths are one of the 5 (five) categories of mineral and coal mining that must be managed with a business permit in accordance with the national Mining Business License (IUP) Law (ARSYAD, 2017).

Related in this case there are also cases that have been followed up, but there are still many illegal mining of rare earths that are still rampant, one of which is the Rare Earth Metal Research Hiliration, the Provincial Government of the Bangka Belitung Islands is exploring cooperation with BRIN (National Research and Innovation Agency) (Arifin & Irsan, 2019). Where the process of investing in research institutions has an impact on the review of institutions and local governments, in the industry Bangka Belitung has a role in terms of research and innovation, especially with the exploration of rare earths. So the author can make this a reference in the research that will be carried out later (Febrianti, 2023).

In the limited regulations, many entrepreneurs take advantage of this. So that many sellers and even illegal entrepreneurs sell rare earths in the inter-city and overseas (export) sectors (Herdinata & Pranatasari, 2019). so in this case the author wants to research related to government regulations related to regulations that are not yet specific to this matter, and find out what encourages illegal sellers to be reluctant to register companies officially to buy and sell rare earths and the author wants to give the results of the author's research to be known by the public how the current regulations are, and the author hopes that this research analysis can be taken into consideration as a guideline for Minerba Bangka Belitung Province.

2. Method

The research method used in this research is empirical juridical (Benuf & Azhar, 2020). According to (Suganda, 2022), empirical juridical research is research conducted by examining secondary data first and then continuing by conducting research on primary data in the field. Juridical research, the law is seen as a norm or *das sollen*, because juridical research is an approach that refers to the applicable laws and regulations (Maruanaya & Suliantoro, 2017). Meanwhile, empirical research is used to analyse the law not merely as a set of laws and regulations that are normative in nature, but the law is seen as the behaviour of society that is

patterned and patterned in people's lives. For this reason, this research will refer to the applicable laws and regulations to reveal this problem in the field under study by adhering to Nurullah, 2024)..

3. Analysis and Results

3.1. Regulation of rare earth sales in Indonesia

Rare earth elements (REE) are a group of 17 chemical elements in the periodic table consisting of 15 lanthanides, as well as scandium and yttrium (Muizatun, 2023). Although the name suggests that these elements are rare, they are actually quite abundant in the earth's crust. However, they are rarely found in concentrations that can be economically exploited, thus causing challenges in the purification extraction process. Rare earth elements as the name implies are very rare elements or very few in nature in the form of complex compounds, generally complex compounds of phosphates and carbonates. Along with the development of material processing technology, rare earth elements are increasingly needed, and generally in the high-tech industry. In Indonesia, minerals containing rare earth elements are found as alluvial gold and tin minerals which have the opportunity to be cultivated as by-products that can provide added value from all potential minerals (Novian et al., 2023).

Research and development of rare earth metals in Indonesia has been carried out by various agencies both research institutions, universities and industry (Aulia, 2020). Research coordination and cooperation have also been carried out by agencies that develop rare earth metal research. The development of rare earth metal research in Indonesia is quite encouraging and is currently building a pilot plant for processing monazite sand to produce rare earth metal which will be produced from a pilot plant for processing monazite sand to produce rare earth oxide. In Indonesia, the potential for rare earth metals exists as accessory minerals in alluvial gold and tin commodities. Geologically, rare earth metals can be found along with the formation of tin deposits. The Southeast Asia Tin Trail itself, which contains most of the tin resources, passes through the Indonesian region starting from the Karimun Islands, Singkep to the Bangka Belitung Islands (Kusmita et al., 2022).

Rare earth elements have similar physical and chemical properties, which makes them often found together in nature. They are known to have unique magnetic, catalytic, and phosphoric properties, which make them extremely important in various advanced technological applications (Ir Abdul Basit & Rahmawati, 2023). Therefore, rare earths are often considered a key component in modern technological revolutions. The sources of rare earths are minerals such as monazite, xenotime, and laterite. The process of extracting rare earths from mineral ores is very complex and requires sophisticated technology and intensive use of chemicals. It involves grinding, flotation, magnetic separation, and chemical purification. In addition, there are significant environmental challenges associated with rare earth mining and processing, including the potential contamination of soil and water by radioactive waste (Darmawan, 2023).

Regulations governing the sale of land in Indonesia are currently governed by several laws and regulations related to mining, environment, and mineral trade (Rupaidi, 2023). Given the strategic value and importance of rare earths in high-tech industries, their management and sale are of concern to the government. Law No. 3 of 2020 on Mineral and Coal Mining (Minerba Law) is the main legal basis governing mining activities, including the mining of rare earth minerals. This regulation regulates all stages of mining activities from exploration, production, to the sale of mining products. In the context of rare earths, the Minerba Law requires Mining Business Licence (IUP) holders to conduct domestic processing and refining activities before mining products can be exported. This aims to increase the added value of mineral commodities in the country.

Government Regulation No. 23/2010 on the Implementation of Mineral and Coal Mining Business Activities. This Government Regulation is an implementing regulation of the Minerba Law that provides more detailed guidelines on licensing procedures, environmental

management, and the sale of mining products. In terms of rare earth sales, this Government Regulation stipulates that exported rare earth minerals must first undergo processing and refining to meet certain standards set by the government. Then, the Minister of Energy and Mineral Resources (MEMR) Regulation often issues additional regulations related to mining governance, including those related to export quotas, domestic processing obligations, and sales mechanisms. In some regulations, the Minister of Energy and Mineral Resources can issue special provisions regarding rare earth exports, including export quota restrictions to maintain domestic reserves and ensure that exported rare earths have undergone processing in accordance with standards (Hasan, 2024).

The regulation of rare earth sales in Indonesia is governed through various laws and regulations that aim to ensure responsible management of these resources in terms of the environment, economy and national security. The government continues to endeavour to increase the added value of these commodities by encouraging downstream and ensuring processing is done domestically before export. In addition, strict supervision and strict law enforcement are needed to ensure that mining activities and rare earth sales are carried out in accordance with applicable regulations and in favour of national interests.

3.2. Penegakan Hukum Penjualan Tanah Jarang Ilegal di Provinsi Kepulauan Bangka Belitung

Law enforcement against illegal rare earth sales in the Bangka Belitung Islands Province is an important issue considering the area is rich in mineral resources, including tin and rare earths (Ristiandy & Purnomo, 2023). Illegal mining activities, including the illegal sale of rare earths, cause various negative impacts, both in terms of the economy, environment, and social. Local governments together with law enforcement officials have taken steps to address this issue. The Provincial Government of Bangka Belitung Islands, through relevant agencies such as the Energy and Mineral Resources Agency (ESDM), cooperates with law enforcement officials to conduct strict supervision of mining activities and rare earth sales. This supervision is carried out through routine patrols, inspections at mining sites, and checking mining business licences (IUP) (Sudiyarti et al., 2021).

If unauthorised mining or sale of rare earths is found, the local government has the right to take strict action by closing down the illegal operation, confiscating the proceeds, and imposing administrative or criminal sanctions on the perpetrators. In some cases, authorities have arrested perpetrators involved in rare earth illegal sales networks, and confiscated mining equipment and vehicles, usually to be prosecuted and faced with criminal charges in accordance with applicable regulations. On 25 July 2024 researchers conducted direct interviews regarding cases of illegal rare earth sales in the Bangka Belitung Islands conducted at the Bangka Belitung Islands Police, in the interview process the researchers obtained information related to illegal rare earth sales which were last raised in 2017. In this case, the article imposed by the perpetrators is Article 161 of Law Number 4 of 2009 concerning Minerals and Coal, with a prison sentence of 5 years.

Despite various efforts, law enforcement against illegal rare earth sales in Bangka Belitung faces a number of challenges (Umam et al., 2020). One of the biggest challenges is the vastness of the area and the difficulty of access to some mining sites that are hidden in the interior or in hard-to-reach areas. In addition, the involvement of certain individuals who protect this illegal activity is also a serious obstacle in law enforcement efforts. Therefore, a strong commitment from all parties, including the community, is needed to report illegal activities and support fair law enforcement. Alternative economic empowerment for communities around mining sites is

also important to reduce dependence on illegal mining activities (Rahayu et al., 2024). By providing livelihoods, it is hoped that communities will not be involved in illegal activities.

Law enforcement against illegal rare earth sales in Bangka Belitung Islands Province is an important priority for the local government and law enforcement agencies. Despite facing various challenges, these efforts continue to be carried out through curbing operations, cross-ministerial cooperation, and public education. strict and consistent law enforcement is expected to reduce these illegal activities and ensure that rare earth resources are managed sustainably and provide maximum benefits to the region and the country.

4. Conclusion

Rare earth elements (REEs), are a group of 17 chemical elements in the periodic table consisting of 15 lanthanides, as well as scandium and itrium. However, they are rarely found in concentrations that can be economically exploited, thus causing challenges in the refining extraction process. Rare earth elements have similar physical and chemical properties, which makes them often found together in nature. The process of extracting rare earths from mineral ores is very complex and requires sophisticated technology and intensive use of chemicals. Regulations governing the sale of rare earths in Indonesia are currently governed by several laws and regulations related to mining, environment, and mineral trade. Given the strategic value and importance of rare earths in the high-tech industry, their management and sale are of concern to the government. This Government Regulation is an implementing regulation of the Minerba Law that provides more detailed guidelines on licensing procedures, environmental management, as well as the sale of mining products. In terms of rare earth sales, this Government Regulation stipulates that exported rare earth minerals must first undergo processing and refining to meet certain standards set by the government. The regulation of rare earth sales in Indonesia is governed through various laws and regulations that aim to ensure responsible management of these resources, both in terms of the environment, economy, and national security. Law enforcement against illegal rare earth sales in the Bangka Belitung Islands Province is an important issue considering the area is rich in mineral resources, including tin and rare earths. One of the biggest challenges is the vast area and the difficulty of access to some mining sites that are hidden in the interior or in hard-to-reach areas. In addition, the involvement of certain individuals who protect this illegal activity is also a serious obstacle in law enforcement efforts. Law enforcement against illegal rare earth sales in the Bangka Belitung Islands Province is an important priority for local government and law enforcement officials.

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