

# **The Role of Local Government in Combating Illegal Mining in the Special Region of Yogyakarta**

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## **ABSTRACT**

Illegal Mining is one of problem that often occurs in Indonesia, that is because Indonesia is a country that has the abundant natural resources and rich country in mining sector. Based on the data from Indonesian Mining Association, Indonesia's mining wealth is ranked the 6<sup>th</sup> in the world. Illegal mining became a common problem that causing Non-Tax State Revenue in the mineral and coal mining sector are small enough to reach only 39,6 trillion rupiahs. This is because the number of illegal mining in Indonesia, which is contrary to the Mining Permits issued by the government. This research aims to analyze the role of the Special Region of Yogyakarta Government in combating the illegal mining and the law enforcement to tackling the illegal mining. The methodology used in this research is normative and empirical legal research. The result of this research shows that the role of government on mining permits in Indonesia based on the Law No. 23 of 2014 on Local Government stated that the authority related to mining permits is no longer the regency/city government, but in the provincial government. Specifically in the Special Region of Yogyakarta will follow that law with the local regulation related to the issue.

**Keywords:** *Illegal Mining, Mining Law, Mining Permits, People's Mining Permits, Special Mining Permits.*

## 1. INTRODUCTION

Indonesia is a country that has the abundant natural resources and a rich country in mining sector. This makes Indonesia specifically regulates the rules or policies to run the activity in terms of natural resource management and the purpose of that all these activities will be implemented as they should be.

As a rich country, Indonesian should be able to get the welfare of the wealth from the natural resources. Based on the data from Indonesian Mining Association (IMA), Indonesia's mining wealth is ranked the 6<sup>th</sup> in the world and this is enough to finance the welfare of the Indonesian Nation. However, between the wealth of Indonesia's mining resources and the welfare of the Indonesian nation is not proportional. Therefore, the authority of the local government in the management of natural resources is in question.<sup>1</sup>

Common issues on the mineral and coal mining sector in Indonesia are mainly caused by the centralistic policy instruments and the regional autonomous principles, which are not accommodated yet by the central government. Moreover, the rate of the mining investment is low due to the inconsistent regulations, particularly relating to the management aspects for the forest sector, spatial uses, environment and the central-regional authority sharing. Interest conflicts of land use, security, illegal mining cause the mining investment that is very low. Accordingly, supply of the products of the mineral and coal commodities for the domestic needs automatically decline.<sup>2</sup>

In the main idea of the Law No. 4 of 2009 on Mineral and Coal Mining, which states that “Minerals and coal as non-renewable resources are controlled by the state and their development and utilization are carried out by the Government and Regional Government together with business actors.”

Related to the enactment of the law on local government that makes authority in the field of mineral and coal mining as the authority of the provincial government hence a significant increase for mining permits in the Special Region of Yogyakarta from the previous when the authority is still as the authority of the district/city government. The increase is seen from the previously only 47 mining business that have permission, then after the law No. 23 of 2014 is applied, there are at least 168 companies apply for mining permits for the entire province of the Special Region of Yogyakarta in 2016, with the details that the application of the permit comes from Kulon Progo Regency totaling 91 companies, Gunungkidul Regency as many as 37 companies, Bantul Regency as many as 24 companies, and Sleman Regency with 26 companies.<sup>3</sup>

From many problems in the existing mining in the Special Region of Yogyakarta, the case of illegal mining occurs frequently because the potential

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<sup>1</sup> Ledyawati, “Kewenangan Pemerintah Daerah dalam Pengelolaan Sumber Daya Alam Pertambangan Minerba di Era Otonomi Daerah”, *Jurnal Agregasi (Aksi Reformasi Government dalam Demokrasi)*, V (May, 2017), p.8.

<sup>2</sup> Bambang Yuniarto, “Analysis of Small-Scale Mining in Mineral and Coal Mining Law Number 4/2009 (Inputs for Formulation of Implementing Regulation)”, *Indonesian Mining Journal*, XII (October, 2009), p.98.

<sup>3</sup> Izin Pertambangan di DIY Membludak, IUP Tak Ada yang Disetujui, *Tribun Jogja* (Yogyakarta), February 13<sup>rd</sup> 2016, p.5, col.3-6.

of minerals which spread in this province makes anyone ambitious to be able to get and even control the results of existing mines. It is encourage many mining entrepreneurs only pay attention practically in running the mining business without following as procedures set forth in the applicable rules.

## **2. RESEARCH METHOD**

### **2.1. Type of Research**

The research was normative and empirical legal research which used the result of interview to respondent, related data from the agencies, and statute approach. In the research, the author was elaborated the concept and principles of library based on normative and empirical method. The Research was supported by the data that taken from the field research by means of interview and data retrieval with the knowledgeable informant.

### **2.2. Research Location and Respondent**

The research was conducted in the Special Region of Yogyakarta which is exactly in the Regional Police of the Special Region of Yogyakarta and Department of Public Works, Housing, Energy and Mineral Resources (DPUP-ESDM). The respondents in the research are people who are competent in their field and may give the information or data related to the problems that will be investigated.

The data of respondent on interview and data retrieval method:

1. Name : Tri Murtoposidi  
Position : Head of Division of Program and Information  
Field : Division of Program and Information  
Agency : Department of Public Works, Housing, Energy and Mineral Resources in the Special Region of Yogyakarta (DPUP-ESDM DIY)
2. Name : Harry Dwi Wibowo, S.T.  
Position : Staff of Mining Analyst  
Field : Sub-division of Geology and Mineral Resources  
Agency : Department of Public Works, Housing, Energy and Mineral Resources in the Special Region of Yogyakarta (DPUP-ESDM DIY)
3. Name : Sumantri  
Position : Police Commissioner  
Field : Directorate of Special Crime Investigation (DITRESKRIMSUS)  
Agency : Regional Police of the Special Region of Yogyakarta

### **2.3. Type of Data**

The data have been collected from the sources which are classified into two data sources, they are:

#### **a. Primary Data**

Primary data is data which is obtained from the result of research which conducted in the field by interview and data retrieval from the

agencies. The interview is performed by asking the respondent with guide questions (interview with the respondent), and data retrieval means that the researcher collecting the data to complete the supporting data from the interview.

b. Secondary Data

For the secondary data, the researcher used the library study that examines the legal materials. The secondary data is classified into three legal materials, they are:

- 1) Primary legal materials consist of legislation as follows:
  - a) The 194 Constitution
  - b) The Law No. 11 of 1967 on Basic Provisions of Mining
  - c) The Law No. 8 of 1981 on Criminal Procedures Code (KUHAP)
  - d) The Law No. 4 of 2009 on Mineral and Coal Mining
  - e) The Law No. 23 of 2014 on Local Government
  - f) The Law No. 2 of 2002 on National Police of the Republic of Indonesia
  - g) The Government Regulation No. 22 of 2010 on Mining Areas
  - h) The Government Regulation No. 23 of 2010 on The Implementation of Mineral and Coal Mining Business Activities
  - i) The Government Regulation No. 55 of 2010 on Guidance and Supervision of Mineral and Coal Mining Business Management
  - j) The Government Regulation No. 78 of 2010 on Post-Mining Reclamation
  - k) The Government Regulation No. 1 of 2017 on Fourth Amendment of Government Regulation No. 23 of 2010 on The Implementation of Mineral and Coal Mining Business Activities
  - l) The Presidential Regulation of the Republic of Indonesia No. 97 of 2014 on The Implementation of One Stop Integrated Service
  - m) The Minister of Energy and Mineral Resources Regulation No. 2 of 2013 on Supervision over The Implementation of Mining Business Management Implemented by the Provincial and Regency / City Governments
  - n) The Minister of Energy and Mineral Resources Regulation No. 34 of 2017 on Permissions in the Mineral and Coal Mining
  - o) The Minister of Energy and Mineral Resources Decree No. 1204 of 2014 on Determination of Mining Areas of Java and Bali Island
  - p) The Local Regulation of the Special Region of Yogyakarta No. 3 of 2015 on Institutional Local Government of the Special Region of Yogyakarta
  - q) The Local Regulation of the Special Region of Yogyakarta No. 3 of 2013 on Environmental Management Efforts and Environmental Monitoring Efforts (UPL-UKL)
  - r) The Governor Regulation of the Special Region of Yogyakarta No. 31 of 2015 on Procedures for Granting Mining Permits for Minerals, Metallic Minerals, and Coal

- s) The Governor Regulation of the Special Region of Yogyakarta No. 46 of 2015 on The Implementation of Mining Permits Activity of Metallic Minerals, Non-Metallic Minerals, and Rocks
  - t) The Governor Regulation of the Special Region of Yogyakarta No. 60 of 2015 on Details of Duties and Functions of the Department of Public Works, Housing, Energy and Mineral Resources
  - u) The Governor Regulation of the Special Region of Yogyakarta No. 57 of 2017 on Amendment of the Governor of the Special Region of Yogyakarta Regulation No. 110 of 2015 on the Implementation of People's Mining Permit
  - v) Other Legislations
- 2) Secondary Legal Materials, which is materials related to primary legal materials, and can assist the analysis process, i.e.:
- a) Books
  - b) Scientific Journal
  - c) Doctrine, opinions, and testimonies from the legal expert which is in written or unwritten
  - d) Other legal document related with the issue
  - e) Websites
  - f) Another non-legal document method to this research
- 3) Tertiary Legal Materials, i.e.: dictionary and encyclopedia.

#### **2.4. Method of Collecting Data**

##### a. Library Research

The research is through the library research by literature learning. In this method, the data was collect by selected legal materials relevant to the topic of the role of local government in combating illegal mining in the Special Region of Yogyakarta.

##### b. Interview

Interview is conversation with a specific purpose, then the conversation was done by both parties. It means that the interviewer who asks the questions and the respondent who provides answers to the question.

#### **2.5. Data Analysis**

The method of data analysis used qualitative descriptive analysis. It means that the collected will be classified and the related data will be elaborated through descriptive qualitative with the applicable law comprehensively.

### **3. DISCUSSION**

#### **3.1. General Description of the Special Region of Yogyakarta**

The Special Region of Yogyakarta is located near the Southern Coast of Java, surrounded by three sides on the province of Central Java, and with the Indian Ocean on the Southside. The population in the 2010

Census was 3,452,390 people. Based on the latest official estimate (January 2014), it has risen to 3,594,290 people. It has an area of 3,133.15 km<sup>2</sup>.

#### List of Administrative Area of the Special Region of Yogyakarta

Division of DIY by City/Regency, 2011	Capital City	District	Sub- district & Village	Area (km <sup>2</sup> )
Yogyakarta City	Yogyakarta	14	45	32,50
Bantul Regency	Bantul	17	75	506,85
Gunugkidul Regency	Wonosari	18	144	1.485,36
Sleman Regency	Sleman	17	86	574,82
Kulon Progo Regency	Wates	12	88	58
<b>TOTAL</b>		<b>78</b>	<b>438</b>	<b>3.185,8</b>

(Source: <http://www.kemendagri.go.id/>)

In general, territorial boundaries of the Special Region of Yogyakarta are: in the Southern part, it is directly adjacent with the Indian Ocean and Wonogiri Regency. In the Northern part of Yogyakarta, the territorial boundary is directly adjacent with Klaten Regency. In Northwest with Magelang Regency and with Purworejo Regency in Westside.<sup>4</sup>

### 3.2. Potential Mining in the Special Region of Yogyakarta

Based on the regional conditions, geographical conditions, and topographical conditions where these conditions are the condition that may affect the potential of minerals contained in a region. Likewise with the conditions of the Special Region of Yogyakarta, the potential of natural resources and the potential of energy and mineral resources are very abundant.

In mineral resources or existing mines in the Special Region of Yogyakarta, there are 28 types of minerals classification, from A, B, or C. For Mineral in Classification of A is in the form of Coal, but the coal in this province is very limited in number as well as for Minerals in Classification of B which in the form of Iron Sand (Fe), Mangan (Mn), Barite (Ba), and Gold (Au) is located in Kulon Progo Regency. Minerals that dominate the Special Region of Yogyakarta are Minerals in Classification of C, they have a high potential for White Limestone (621.073,6 ton), Andesite (44.097,2 ton), Bentonite (1.699,16 ton), and Feldspar (1.225 ton). In addition to minerals that have a high potential,

<sup>4</sup> “Daerah Istimewa Yogyakarta”, [https://id.wikipedia.org/wiki/Daerah\\_Istimewa\\_Yogyakarta](https://id.wikipedia.org/wiki/Daerah_Istimewa_Yogyakarta) accessed on 15 April 2018, (21.45).

these are the other Minerals in Classification of C i.e. Sand, River Stone, Gravel, Sand Stone, Clay, Backfill Soil, Limestone, Calcite, Zeolite, Rocking Breccia.

### **3.3. The Role of Provincial Government in Combating Illegal Mining in the Special Region of Yogyakarta**

#### **3.3.1. The Change of Policy on the Authority of Mining Permits from City/Regency Government to Provincial Government Based on the Law No. 23 of 2014 on Local Government**

As stated in the Law No. 23 of 2014 on Local Government that the implementation of local government is directed to accelerate the realization of community welfare through the improvement of services, empowerment, and community participation, and enhancement of regional competitiveness. The implementation of local government is having regard to the principles of democracy, equity, justice, and uniqueness of a region in the system of the Unitary State of the Republic of Indonesia.

Related to the implementation of government affairs, in the Article 14 of the Law No. 23 of 2014 mentioned that the conduct of government affairs in the field of forestry, marine, energy and mineral resources are divided between the Central Government and Provincial Government.

The Law No. 23 of 2014 is the legal basis which became the substitute of the Government Regulation No. 38 of 2007 in which the law is enacted by replacing the tasks and authority of government affairs in the field of Mineral and Coal Mining. It previously became the authority of each City/Regency Government, becoming the authority of the Provincial Government in accordance with the provisions that have been arranged.

The authority of the Provincial Government in the management of mining as regulated in the Article 7 of Law no. 4 of 2009 on Mineral and Coal Mining, the norm is almost the same as the authority of the Central Government, only the level concerning the local arrangements of provinces and cross city/regency are related to the mining permissions.<sup>5</sup>

The authority of the provinces of Sub Division of Mineral and Coal as mandated by the attachment of the Law No. 23 of 2014, i.e.:

- a. Determination of Mining Permits Area of metal, nonmetal and rock mineral in 1 (one) province and sea territory up to 12 miles;
- b. Controlling of Mining Permits for metallic minerals and coal in the framework of domestic investment in mining permits area

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<sup>5</sup> Meray Hendrik, "Pengaturan Hak Penguasaan Negara Atas Pertambangan Studi Perbandingan Konsepsi Kontrak Karya Dengan Izin Usaha Pertambangan", *Law Review Universitas Pelita Harapan*, XI (July, 2011), p.11.

within one province, including sea territories up to 12 nautical miles;

- c. Controlling of Mining Permits for non-metallic minerals and rocks in the framework of domestic investment in mining permits area within 1 (one) province including sea territory up to 12 nautical miles;
- d. Controlling of People's Mining Permits for metal mineral commodities, coal, non-metallic minerals and rocks in the people's mining areas;
- e. Controlling of Production Operation Mining Permits especially for processing and refining in the framework of domestic investment whose mining commodities come from 1 (one) same province;
- f. Controlling of Mining Service Permits and certificate of registered in the framework of domestic investment whose business activities in 1 (one) province;
- g. Determination of benchmark prices of non-metallic minerals and rocks.

After the enactment of the Law No. 23 of 2014, the Minister of Energy and Mineral Resources then issued Circulation Letter (SE) with the aim in order to control the authority system. In the circulation letter of the Minister of Energy and Mineral Resources No. 04.E/30/DJB/2015 is stipulated an instruction that the Mayor/Regent immediately submit permission files to the Governor. The details of the circulation letter include:

- a. Mayor/Regent no longer have the authority in the administration of government affairs in the field of mineral and coal mining commencing on October 2<sup>nd</sup>, 2014 since the enactment of the Law No. 23 of 2014;
- b. With the enactment of the Law No. 23 of 2014, then the articles in the Law No. 4 of 2009 on Mineral and Coal Mining and its implementing regulations governing the authority of Mayors/Regents no longer have the power of law;
- c. To provide legal certainty and business certainty to the holders of Mineral and Coal Mining Permits, the Governor and Mayor/Regent shall immediately coordinate related to the submission of Mining Permits (IUP) which includes Exploration Mining Permits, Production Operation Mining Permits of Metal Minerals, Non-Metals, Rocks, and Coal, etc.

### **3.3.2. The Role of Provincial Government of the Special Region of Yogyakarta in Combating the Illegal Mining Through Department of Public Works, Housing, Energy and Mineral Resources (DPUP-ESDM)**

The Government of the Special Region of Yogyakarta established the rules to focus the role of government in the field of

energy and mineral resources based on a more specific legal basis to regulate it through the Governor Regulation of the Special Region of Yogyakarta No. 31 of 2015 concerning Procedures for Provision of Mining Permits Area for Metallic Minerals, Non-Metallic Minerals and Rocks.

It is stated in Article 2 paragraph (2) of the Governor Regulation No. 31 that these rules are structured with a purpose:

- a. To arrange and control the mining business activities of metallic minerals, non-metallic minerals, and rocks in the Special Region of Yogyakarta;
- b. To ensure the mining utilization of metallic minerals, non-metallic minerals and rocks in a sustainable and insightful environment; and
- c. To ensure legal certainty in the mining operation of metallic minerals, non-metallic minerals, and rocks.

In addition with the Governor Regulation of the Special Region of Yogyakarta No. 31 of 2015, then in order the government affairs in the field of mining will be in accordance with the supposedly the issuance of the Governor Regulation of the Special Region of Yogyakarta No. 46 of 2015 on the Implementation of Mining Permits Activity of Metallic Minerals, Non-Metallic Minerals and Rocks.

In order to regulate the mining permissions in the Special Region of Yogyakarta, in accordance with Article 2 paragraph (1) that the purpose of the issuance of the Governor Regulation No. 46 is as a guideline in the implementation of mining permits activity of metallic minerals, non-metallic minerals, and rocks.

In the authority that has been granted to the provincial government in terms of performing the role as authorized in the matters of the government of the mining sector, the Regional Work Unit (SKPD) that granted authority in the Special Region of Yogyakarta is the Department of Public Works, Housing, Energy and Mineral Resources (DPUP-ESDM).<sup>6</sup>

In carrying out the duties and authorities, DPUP-ESDM DIY is guided by the Governor Regulation of the Special Region of Yogyakarta No. 60 of 2015 on the Details of Duties and Functions of the Department of Public Works, Housing, Energy and Mineral Resources.

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<sup>6</sup> Department of Public Works, Housing, Energy and Mineral Resources (DPUP-ESDM) of the Special Region of Yogyakarta is one of the Regional Work Unit (SKPD) at the Provincial level by overseeing the Public Works, Housing Sector, Energy and Mineral Resources Sector which established under the Local Regulation of Special Region of Yogyakarta No. 3 of 2015 on the Institutional Government of the Special Region of Yogyakarta.

Refers to the duties and functions as mandated by Governor Regulation No. 60 of 2015 established a solution to the mining problems in the Special Region of Yogyakarta. As explained Harry Dwi Wibowo, S.T. in an interview on March 29<sup>th</sup>, 2018, that the things are done to carry out the role as authorized for that matters make efforts, i.e.:

a. Socialization

Socialization is an early step that is done to prevent the occurrence of violations related to mining business in the Special Region of Yogyakarta. This effort has been done by DPUP-ESDM to provide knowledge for mining business actors.

Socialization that is undertaken by DPUP-ESDM, in this case, is undertaken by the Sub-division of Geology and Minera Resources related to the procedure of conducting mining activities in accordance with applicable provisions, on the importance of having a Mining Permits, if the mining business actors want to do the business, and about providing the information related to the process for obtain the permission.

Besides as a preventive effort against violations in the field of the mining business, this socialization is done for several reasons, including:

- 1) Finding many mining business actors in the Special Region of Yogyakarta who does not have a Mining Permits, Exploration Mining Permits, or Production Operation Mining Permits but still carries on the mining activities, or in termed as Illegal Mining.
- 2) Mining business actors assume that the time required for the licensing process takes a long time. In general, this reason is a fundamental reason by the perpetrators of the People's Mining Permits. Which in their area of business is a mining area with a small scale, and it conducts the mining activities that do not require a long time to do these activities. But if they have to take care of the People's Mining Permits, in accordance with the procedures that have been set, they think that the process will only harm them for taking too much of their time. It compared to directly do the mining activities without having to take care of the licensing process first.

b. Guidance

This effort is an effort in the step after socialization efforts have been implemented. Where the guidance effort is done with the target of the mining business actors who are in the process of licensing process. This guidance process is required because the licensing process has a limitation of the processing time.

The first step of the application of Mining Permits is the process of determining the Mining Permits Area. Then after obtaining a Decision Letter (SK), the next step is to go to the step

of the Mining Permits (Exploration and Production Operation) and to get the permit, we must have a letter of recommendation from the authorized institution.

DPUP-ESDM is one of the agencies that becomes the recommendation provider of the licensing process, it has many other considerations that are required in the process of licensing. One of the reasons is to look at the Environmental Impact Analysis (AMDAL), to consider whether these areas are included in areas with potential minerals that can be mined, and also to consider whether the Mining Permits Area entered into the conservation area or not. Based on the rules for conservation, areas that are the exceptions, cannot be mined for any reason. Particularly in the application of permits in the Mining Permits are for the river area, then the existence of the Main Office of River Basin Office / *Balai Besar Wilayah Sungai* (BBWS).<sup>7</sup>

c. Supervision

In terms of the role of supervision of mining business activities in the Special Region of Yogyakarta, it becomes the duty and authority of Suervisory Body of Mining, Energy and Mineral Resources / *Balai Pengawasan Pengendalian Pertambangan* (BP3ESDM). This agency is not only located at the level of province, but there are also many agencies in every regency in the Special Region of Yogyakarta. The task of this agency is to search for mining business activities that do not have permission. When they found it, the finding will be done socialization related to the permissions of mining permits. In addition to the task of supervision on illegal mining activities, the agency is also tasked with supervision for mining activities that has a permit.

In conducting the supervision, if they find or receive the complaints related to violations such as the violations within the scope of mining business activities, BP3ESDM coordinates with the police as a law enforcement apparatus authorized for preliminary investigation and investigation.

An example of BP3ESDM's successful supervisory role is in the year 2017 in the Gunungkidul Regency, they found many of people's mining activities but no one has permits and registered in the DPUP-ESDM. Furthermore, the socialization efforts will be carried out by calling all the people's mining business actors who do the mining activities without permits, which in its socialization BP3ESDM explained about the licensing process up to the threat of sanction and criminal punishment that can be imposed by the people's mining business without having a

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<sup>7</sup> BBWS is technical implementation unit in the field of water resources, water resources development, utilization of water resources and control of water damaged on the river, which is at the bottom and is responsible to the Director-General of Water Resources.

permit. The result of the socialization is a significant increase in the application of the People's Mining Permits (IPR) from the previous in 2015 to 2016 that no one requests related to the IPR, then in year 2017 to be recorded in February 2018 at least the number of the application of IPR coming from Gunungkidul Regency is 43 applications. With details of 20 applications is in accordance with the recommendations by DPUP-ESDM and 23 applications is not in accordance with the recommendations. It can be seen from below data related to IPR data since 2017 - February 2018:

**Application Data of People's Mining Permits in 2017 - February 2018**

<b>Location</b>	<b>Total Request</b>	<b>Appropriate Recommendation</b>	<b>Inappropriate Recommendation</b>
Kulon Progo Regency	13	2	10
Gunungkidul Regency	43	23	20
Sleman Regency	0	0	0
Bantul Regency	15	4	11
Cross-Regency	0	1	0
<b>TOTAL</b>	<b>71</b>	<b>30</b>	<b>41</b>

**(Source: DPUP-ESDM of the Special Region of Yogyakarta)**

Together with the role of DPUP-ESDM that DPUP-ESDM of the Special Region of Yogyakarta has undertaken to tackle the illegal mining, a significant increases are shown from existing data of Mining Permits. The following is the application data for the submission of Mining Permits along with the amount given recommendation (appropriate recommendation) and the number of files from submitted submissions (inappropriate recommendations):

### Data of IUP Application in year 2015 – 2018

Location	Total Request				Recommendation	File Back
	2015	2016	2017	2018		
Kulon Progo Regency	82	107	161	25	194	169
Gunungkidul Regency	37	2	28	0	51	17
Sleman Regency	12	58	64	8	74	65
Bantul Regency	22	22	16	0	35	25
Cross-Regency	0	0	10	1	23	2
<b>TOTAL</b>	<b>655</b>				<b>655</b>	

(Source: DPUP-ESDM of the Special Region of Yogyakarta)

### Data of Existing IUP in year 2015 – 2018

Exploration IUP		Production Operation IUP		Special IUP		
River	Land	River	Land	Sales	Processing	Carriage
98	90	24	31	33	7	4
<b>TOTAL</b>						
<b>188</b>		<b>55</b>		<b>44</b>		

(Source: DPUP-ESDM of the Special Region of Yogyakarta)

From the data in the table above, it can be seen that the number of applications related to mining permits from 2015 to 2018 is 655 applications. It can be noted that not all submitted requests get recommendation by DPUP-ESDM .

### 3.4. The Law Enforcement in Tackling Illegal Mining in the Special Region of Yogyakarta

Law enforcement is a legal effort conducted by law enforcement authorities, in this case, is the Police, as in Article 13 of the Law No.2 of 2002 on the National Police of the Republic of Indonesia stated that one of

the main duties of the Police of the Republic of Indonesia is law enforcement in Indonesia.

Law enforcement in the case of Illegal Mining must continue to be enforced, where the reasons for this illegal mining are the increasing economic need and the expected profitability of the mining business, making these mining entrepreneurs do unauthorized mining activities because they only think economic benefits without wanting to take care of the mining permits.<sup>8</sup>

The task of enforcing the law also applies to the enforcement of cases against illegal mining prevention in the Special Region of Yogyakarta. Where in law enforcement efforts, there are two efforts that can be done, i.e. prevention, investigation and prosecution. These efforts are made by looking at the right circumstances to carry out the effort.

#### 1. Prevention Efforts

Prevention of an offense is the way the community reacts to the phenomenon of violation or crime. It is then within the scope of prevention that there are limits on prevention of violations as an endeavor which includes all measures which include a special purpose to minimize the scope of an offense, through the efforts of giving influence to potential people who can become an offender and to society.<sup>9</sup>

Prevention efforts attempted to provide understanding, legal counseling, mentoring, solving and expected to arise legal awareness, legal obedience so as to arise legal order.

In against illegal mining crimes in the Special Region of Yogyakarta, prevention efforts are done by related SKPD. In this case SKPD related to the prevention of illegal mining is Supervisory Body of Mining, Energy and Mineral Resources (BP3ESDM).

#### 2. Investigation and Prosecution

In against illegal mining crimes in the Special Region of Yogyakarta, Investigation and Prosecution efforts are done by:

- a. The Civil Servants Investigator (PPNS)
- b. Water Police

Then in order to prosecute the perpetrators of actions that are not in accordance with the existing legal rules, the Regional Police of the Special Region of Yogyakarta has an important role. With coverage to tackle existing illegal mining cases, the field in the

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<sup>8</sup> Seselia Jurniati, "Penegakan Hukum Pidana terhadap Pelaku Penambang Emas Tanpa Izin di Kecamatan Kuala Behe Kabupaten Landak Menurut Undang-Undang No. 4 Tahun 2009 Tentang Pertambangan Mineral dan Batubara", *Gloria Yuris Jurnal Universitas Tanjungpura*, III (January, 2014), p.4.

<sup>9</sup> Mohammad Kemal, *Strategi Pencegahan Kejahatan*, PT. Citra Aditya Bakti, Bandung, 2012, p.55S

police force that has authority in handling illegal mining cases is the Police's Directorate of Special Crime (DITRESKRIMSUS).<sup>10</sup>

In addition, when police want to investigate the actors it used Law No. 8 of 1981 concerning Criminal Procedures Code (KUHAP). All the process of the investigation should be done was regulated in this law.

The Regional Police of the Special Region of Yogyakarta in this case, DITRESKRIMSUS, in order to fulfill the law enforcement, it has tasks to tackling the illegal mining so far has made an act of investigation and prosecution. One of these efforts is carried out at the time of receipt of a report of the possibility of an illegal mining crime or the direct existence of the field findings due to the offense. Then, the thing done by DITRESKRIMSUS is the preliminary investigation.

The preliminary investigation is a series of investigative actions to search for and find an alleged criminal incident to determine whether or not an investigation is conducted in the manner prescribed in the Law.<sup>11</sup>

After the preliminary investigation, the next step is investigations. Investigation is a series of investigative actions in respect of and in the manner prescribed in the Law to seek and collect the evidence, then with evidence, it makes easier to find the criminal offense and to find the suspect.<sup>12</sup>

After the completion of the investigation, then the police will delegate the case to the High Prosecutor's Office. The final steps in the handling of illegal mining criminal cases ends in a decision issued by the prosecutor. The following is the case data that has been handled by DITRESKRIMUS:

#### **Data of Illegal Mining Cases in year 2016 - 2018**

<b>Year</b>	<b>Location / Crime Scene</b>	<b>Number of Cases</b>
2016	Gunungkidul Regency	2
	Kulon Progo Regency	2
	Sleman Regency	1
2017	Gunungkidul Regency	3

<sup>10</sup> DITRESKRIMSUS is an abbreviation of the Police's Directorate of Special Criminal which is the main task force element for certain cases that have been classified into special crime at the provincial police level under the Regional Police Chief.

<sup>11</sup> Article 1 point 9 of Law No. 2 of 2002 on National Police of the Republic of Indonesia.

<sup>12</sup> *Ibid*, Article 1 point 13.

	Bantul Regency	1
	Sleman Regency	3
	Kulon Progo Regency	5
2018	Sleman Regency	1
<b>TOTAL</b>		<b>18</b>

(Source: DITRESKRIMSUS of Regional Police of Special Region of Yogyakarta)

#### 4. CONCLUSION AND SUGGESTION

##### 4.1. Conclusion

Based on the description in the analysis of the results of the research, then the author can infer some things, i.e.:

- a. The role of the Provincial Government of Special Region of Yogyakarta in combating the illegal mining in this province through Regional Work Unit (SKPD) i.e. the Department of Public Works, Housing, and Energy and Mineral Resources (DPUP-ESDM). The roles which are conducted by the Special Region of Yogyakarta Government among others:
  - 1) To socialize about the importance of having a Mining Permit (IUP) for the mining entrepreneurs and the process of its permissions
  - 2) To provide guidance to the mining entrepreneurs to always obey the rules relating to the mining activities
  - 3) To conduct supervision through Mining Supervision and Control Centers (BP3-ESDM) in the mining business that have operated, so as not to violate the rules that have been defined for the mining activities do
  - 4) To cooperate with the other Regional Work Unit (SKPD) in providing guidance and supervision to mining entrepreneurs, and
  - 5) To cooperate with law enforcement agencies, which in this case is the Police in terms of enforcement of the law against the perpetrators of the illegal mining.
- b. The law enforcement as combating efforts against the illegal mining in the Special Region of Yogyakarta carried out by law enforcement agencies, in this case is the Regional Police of the Special Region of Yogyakarta (POLDA DIY). In enforcing the law against the perpetrators of illegal mining, the Regional Police in the authorities through the Police's Directorate of Special Crime (DITRESKRIMSUS) assisted by the Departmental Police (POLRES) and the Water Police (POLAIR) to investigate and/or arrest the illegal mining in accordance with the respective working area. The steps undertaken by the police

force was based on the report of the society or from Mining Supervision and Control Centers (BP3-ESDM).

The efforts made by the police at the time of the discovery of the illegal mining activities are through the preliminary investigation and proceed with the investigation, based on the Law No. 2 of 2002 on Indonesian National Police in conjunction with the Law No. 4 of 2009 on Mineral and Coal Mining and the Law No. 8 of 1981 on Criminal Procedures Code (KUHAP).

**A. Suggestion**

- a. There is a need for more socialization related to People's Mining Permit (IPR) to the community that doing the people's mining business without permit. It is in need of reminding the large number of people's mining business in the Special Region of Yogyakarta but its registered permission in the Department of Public Works, Housing, and Energy and Mineral Resources only on Area of People's Mining Permits.
- b. There is a need for increasing the supervision related to observance of rules of environmental management by the mining business. It is necessary because of the large number of mining activities are still operating but ignoring the environmental management in the mining business area. The purpose is to make the environment of post-mining can still awake and not been left, so that no casualties result from the non-reclamation of the post-mining land.
- c. It is necessary to increase the law enforcement in illegal mining cases in the Special Region of Yogyakarta. The existing data shows that in the Regional Police of the Special Region of Yogyakarta that only a few cases have been processed, which are not proportional to the number of mines in the Special Region of Yogyakarta which do not yet have an Area of Mining Permits (WIUP), Exploration Mining Permits, and Production Operation Mining Permits.

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