PROSECUTORIAL CONSIDERATIONS AND THE APPLICATION OF DEELNEMING IN UNLICENSED GOLD MINING CASES IN KUANTAN SINGINGI REGENCY

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Abstract
Unlicensed Gold Mining (PETI) may involve multiple parties with different forms and degrees of involvement, raising issues concerning criminal liability, the application of *deelneming*, and the determination of the sentence sought for each defendant. This study aims to analyze the Public Prosecutor's legal considerations in determining the sentences sought and the application of *deelneming* based on the defendants' conduct in PETI cases in Kuantan Singingi Regency. The study employs normative legal research through a document-based legal study of three PETI cases from 2026 that have obtained final and binding judgments from the Teluk Kuantan District Court. Case documents consisting of indictments, sentencing submissions, and court judgments are analyzed qualitatively to identify the relationships among the defendants' concrete conduct, forms of involvement, legal qualifications, and sentences sought. The findings show that the Public Prosecutor's considerations in determining the sentences sought are related to the defendants' concrete conduct, nature of contribution, knowledge of the purpose of the activity, cooperative relationship, and circumstances relevant to the individualization of sentencing. The application of Article 20(c) of Law No. 1 of 2023 demonstrates that status as a worker or wage-based employee does not preclude the legal qualification of *medeplegen*, as the assessment depends on conscious cooperation and the connection between the contribution and the execution of the criminal offense. Differences in the degree of contribution and level of control constitute important bases for differentiating the severity of the sentences sought. The findings confirm that the application of *deelneming* in PETI cases requires consistency among the facts of the case, the nature of the contribution, the legal qualification, and the reasoning underlying the individualization of the sentence sought.

Keywords: *unlicensed gold mining, deelneming, medeplegen, criminal prosecution, public prosecutor*

Introduction

Unlicensed Gold Mining (PETI) refers to mining activities conducted without the Business License required under the applicable laws and regulations (Melian et al., 2024). PETI presents a significant issue in mineral resource governance because mining activities involve natural resources whose management is grounded in Article 33

paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Meutia et al., 2022). This provision stipulates that the land, waters, and natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people (Republik Indonesia, 1945). This principle provides the basis for regulating mining activities, including the requirement to obtain a license before conducting mining operations (Movchan et al., 2022; Redi, 2023). Mining licensing is regulated by Law No. 3 of 2020 amending Law No. 4 of 2009 on Mineral and Coal Mining. Article 35 provides that mining activities shall be conducted on the basis of a Business License, while Article 158 imposes criminal penalties on any person who engages in mining without a license, consisting of imprisonment for a maximum of five years and a fine of up to IDR 100 billion (Republik Indonesia, 2020). The reference to "any person" in Article 158 requires the conduct and involvement of each party to be considered in determining criminal liability (Halomoan & Elfiani, 2026; Sulaiman, 2023).

PETI activities may involve several parties performing different functions, ranging from providing capital and equipment to arranging the mining site, supervising operations, and carrying out technical work (O. K. Haris, 2026b; Ranggalawe et al., 2023). Workers performing technical functions may be prosecuted as defendants even when the provision of equipment, site arrangements, or organization of the operation is undertaken by other parties (D. M. Haris, 2025; Supriyadi et al., 2023). A person's status as a worker or presence at a mining site is insufficient, by itself, to determine the form of involvement in the criminal offense (Permata et al., 2025). The assessment requires consideration of the person's knowledge of the purpose of the operation, the contribution provided, the allocation of functions, and the cooperative relationship with other parties (O. K. Haris, 2026a; Iqbal et al., 2023; Iwari et al., 2024). This issue relates to the application of *deelneming* in criminal law. Article 20 of Law No. 1 of 2023 on the Criminal Code regulates the forms of perpetration, including participation in the commission of a criminal offense as provided under Article 20(c) (Republik Indonesia, 2023; Saragih et al., 2022). This provision provides a basis for assessing whether each party's contribution forms part of the joint commission of the criminal offense (Simamora & Saragih, 2025).

The determination of the form of involvement is directly related to the prosecution process because it must be reflected in the indictment and the sentence sought. The Prosecutor's Office exercises prosecutorial authority pursuant to Law No. 11 of 2021 amending Law No. 16 of 2004 on the Prosecutor's Office (Republik Indonesia, 2021). In exercising this authority, the Public Prosecutor prepares the indictment and sentencing submission on the basis of the facts and evidence reflected in the case documents (Sumarni & Saragih, 2025). Determining the sentence sought requires consideration of the defendant's conduct, degree of involvement, and circumstances relevant to the severity of the sentence (Mustakim et al., 2026). Uhlmann (2014) demonstrates that the prosecution of environmental offenses allows prosecutors to consider the characteristics and seriousness of the conduct. The concept of prosecutorial discretion is therefore relevant to examining how the Public Prosecutor assesses the defendant's form of involvement and relates that assessment to the determination of the sentence sought (Uhlmann, 2018).

Kuantan Singingi Regency is one of the areas affected by PETI activities. Nurfadila et al. (2024) reported that PETI activities had increased since 2013 and resulted in mercury contamination of rivers and damage to 6,227.63 hectares of agricultural land. In 2016,

damage to company land and rivers reached 1,724.3 hectares. PETI activities have also created safety risks for workers, including fatalities caused by landslides. These conditions indicate that PETI involves not only violations of licensing requirements but also a work structure in which workers perform specific functions within mining operations (Pratama & Firdaus, 2023). This context makes Kuantan Singingi Regency relevant for examining the relationship between workers' concrete conduct, the construction of participation, and the prosecution process (Elisabeth Sinaga, 2025; Marlinda, 2022).

Previous studies have examined PETI from the perspectives of law enforcement, regulatory effectiveness, mining typology, and criminal liability. Putri (2020) analyzed law enforcement against PETI in Singingi District by examining preventive and repressive measures and the obstacles faced by law enforcement authorities. Asnawi & Oktapani (2025) examined the effectiveness of the implementation of Law No. 3 of 2020 in Kuantan Singingi Regency, focusing on regulatory, coordination, and supervisory aspects as well as the community's socioeconomic conditions. Jumelfis et al. (2026) likewise examined PETI law enforcement in Kuantan Singingi Regency by highlighting the gap between regulation and implementation and the factors affecting law enforcement effectiveness. Rohman et al. (2024b) examined illegal mining typologies and enforcement models, while Rohman et al. (2024a) addressed the need to strengthen legislation and law enforcement against illegal mining. With respect to criminal liability, Lubis (2025) and Kontu et al. (2024) examined the liability of field workers and the application of *medeplegen*, or participation in the commission of a criminal offense, in illegal gold mining cases based on court judgments applying Article 55 paragraph (1) point 1 of the former Criminal Code. Tustinaningsih & Akhmaddhian (2025) examined criminal liability in mining criminal law, while Tute & Puluhulawa (2025) provided a conceptual foundation for *deelneming* and the involvement of multiple perpetrators in a criminal offense.

These studies have contributed to an understanding of PETI law enforcement, perpetrator liability, and forms of participation. However, no previous study has specifically examined the Public Prosecutor's considerations in determining the sentence sought against workers based on the form of involvement of each defendant. This study addresses this gap by analyzing the Public Prosecutor's considerations in determining the sentence sought and the application of *deelneming* based on the defendants' concrete conduct. The analysis focuses on cases occurring after the entry into force of Law No. 1 of 2023 on the Criminal Code on January 2, 2026, with Article 20(c) serving as the legal basis for the application of participation in the commission of a criminal offense. The study addresses two research questions: (1) how does the Public Prosecutor construct legal considerations in determining the sentence sought against workers in PETI cases in Kuantan Singingi Regency? and (2) how is *deelneming* applied to workers based on the form of their conduct in PETI cases?

Method

This study employs normative legal research through a document-based legal study using case, statutory, and conceptual approaches. The research examines three PETI cases involving offenses committed in 2026, handled by the Kuantan Singingi District Prosecutor's Office, and finally adjudicated by the Teluk Kuantan District Court. The selection of 2026 cases is based on the tempus delicti occurring after the entry into force

of Law No. 1 of 2023 on the Criminal Code on January 2, 2026, making the application of Article 20(c) concerning participation in the commission of a criminal offense relevant to the analysis of the defendants' forms of involvement. The three cases were selected because they demonstrate variations in the defendants' forms of involvement, allowing a comparative analysis of the Public Prosecutor's considerations in determining the sentences sought and the application of *deelneming* based on the defendants' concrete conduct.

The legal materials consist of primary and secondary legal materials. The primary legal materials include Law No. 3 of 2020 amending Law No. 4 of 2009 on Mineral and Coal Mining, Law No. 1 of 2023 on the Criminal Code, and case documents consisting of the indictments, the Public Prosecutor's sentencing submissions, and the judgments of the Teluk Kuantan District Court. The sentencing submissions serve as the primary source for examining the Public Prosecutor's considerations in determining the sentences sought, while the indictments are used to examine the construction of the alleged conduct and the judgments serve as a basis for comparison with the prosecutorial construction. Secondary legal materials, consisting of books, scholarly journal articles, and previous studies, are used to support the analysis of *deelneming* and criminal liability. All legal materials are analyzed by integrating the three approaches employed in this study. The statutory approach is used to examine the legal basis governing PETI and participation, the conceptual approach is used to analyze *deelneming*, particularly *medeplegen*, based on the nature of the contributions and cooperation among the perpetrators, while the case approach is used to compare the application of the relevant legal provisions and concepts across the three cases.

Document analysis is employed because the object of the study is the Public Prosecutor's legal reasoning as formally expressed in the prosecution documents. The indictment, sentencing submission, and judgment contain a sequence of legal constructions that can be traced from the description of the conduct and legal qualification to the form of involvement and the sentence sought. Comparison across these documents enables the Public Prosecutor's reasoning to be systematically examined in relation to the facts of the case and the court's assessment. Interviews with Public Prosecutors were not conducted because the study does not examine subjective motivations or internal decision-making processes that are not recorded in the case documents. The analysis is limited to legal considerations identifiable from the case documents and is not intended to draw conclusions concerning the entirety of the Public Prosecutor's internal exercise of prosecutorial discretion. The materials are analyzed qualitatively using content analysis to identify the relationships among the description of the defendants' conduct, the form of *deelneming*, the Public Prosecutor's legal considerations, and the sentences sought.

Result and Discussion

Characteristics of the Cases and Forms of Defendant Involvement

Analysis of the three cases shows that differences in the defendants' involvement lie not only in the type of work performed, but also in the relationship among their contributions, control over the equipment and resources, economic interests, and positions within the overall PETI operation. In Case 1, Defendant H performed technical functions while also exercising control over the equipment and holding an economic interest in the operation. In Case 2, Defendant P worked as an excavator operator on a

wage basis, while the provision of equipment and supervision were handled by other parties. In Case 3, Defendant M was responsible for providing equipment, arranging the mining site, engaging an operator, and supervising the operation. Cases 2 and 3 arose from related PETI activities at the same location during overlapping periods but were processed in separate case files. The relationship between the two cases therefore remains relevant to understanding the division of functions between Defendant P as the operator and Defendant M as the party who provided the equipment and organized the operation. These differences provide the basis for analyzing the considerations underlying the sentences sought and the applicable *deelneming* classification, rather than merely classifying the defendants according to their occupations.

Table 1. Characteristics and Forms of Defendant Involvement in PETI Cases

Case	Case Number	Defendant	Primary Function	Form of Contribution	Prosecution Sentence Sought	Judgment
Case 1	148/Pid.Sus-LH/2026/PN Tlk	H	Operator and equipment owner	Operating the mining equipment and providing the equipment	10 months	10 months
Case 2	121/Pid.Sus-LH/2026/PN Tlk	P	Operator	Operating the excavator for wages	1 year	7 months
Case 3	122/Pid.Sus-LH/2026/PN Tlk	M	Organizer and supervisor	Renting the equipment, arranging the site, engaging the operator, and supervising the activity	1 year	8 months

In Case 1, H purchased a gold-mining machine for IDR 9,000,000, rented the mining site for IDR 200,000 per week, operated the equipment together with another party, and received a 60% share associated with ownership of the equipment and operational costs. This series of actions indicates that H's role was not limited to performing technical work, but also involved control over the equipment and an economic interest in the mining operation.

In Case 2, P worked as an excavator operator and received IDR 50,000 per hour. The equipment was provided by another party, and the operation was conducted under the supervision of another party. P knew from the outset that the excavator was being used for unlicensed mining. P's contribution centered on operating the equipment, while the provision of equipment, site arrangements, and supervision of the operation were undertaken by other parties. This position distinguishes P from the party who owned or controlled the mining equipment.

In Case 3, M rented an excavator, reached an agreement concerning the use of the land, brought the equipment to the site, engaged P as the operator, and supervised the operation. This series of actions demonstrates an organizational function that was absent in Case 2. M did not perform technical work as an operator, but took actions relating to the provision of equipment, arrangement of the mining site, and implementation of the operation. This mapping demonstrates that the differences in the defendants' positions relate not only to the type of work performed, but also to the nature of their contributions within the overall PETI operation.

Legal Considerations of the Public Prosecutor in Determining the Sentence Sought

The sentencing submissions show that the Public Prosecutor's considerations in determining the sentences sought are constructed through the relationship among the defendants' conduct, their forms of involvement, and the circumstances considered in determining the appropriate sentence. Analysis of the three cases indicates that these constructions do not exhibit the same degree of precision. The most significant differences concern how the Public Prosecutor connects the factual conduct with the legal qualification of *medeplegen* and how the degree of contribution is translated into the severity of the sentence sought.

In Case 1, the Public Prosecutor linked the alternating operation of the equipment, the division of tasks, and the distribution of proceeds to the existence of cooperation in the mining operation. This construction indicates an attempt to place H's conduct within a cooperative relationship with other parties. However, the formulation referring to "those who commit, order the commission of, or jointly commit" still combines several forms of participation. In the analysis of the elements, the Public Prosecutor referred to Article 20(c) of Law No. 1 of 2023, but the reasoning specifically demonstrating the fulfillment of *medeplegen* was not clearly distinguished from the other forms of participation. The issue does not concern the absence of facts indicating cooperation, but rather the lack of a clear connection between those facts and the legal qualification of medeplegen. H occupied a more complex position because, in addition to performing technical functions, H also provided and controlled the equipment and held an economic interest in the mining operation.

The construction in Case 2 is more focused because the Public Prosecutor connected P's work as an operator with the concepts of *bewuste samenwerking* and *gezamenlijke uitvoering*. P's knowledge that the excavator was being used for unlicensed mining was considered together with the fact that operating the equipment constituted a direct part of the execution of the operation. This construction indicates that the Public Prosecutor did not base P's criminal liability solely on P's position as an operator, but connected the technical conduct with conscious cooperation in carrying out the operation. This approach is consistent with Kontu et al. (2024), who demonstrated that an excavator operator may be held criminally liable in an unlicensed gold mining case when the operation of the equipment is incorporated into the legal construction of the offense charged.

Case 3 presents a more substantive issue because there is a discrepancy between the description of the conduct and the characterization of the role in the analysis of the elements. The case documents describe M as the party who rented the equipment, arranged the use of the land, brought the equipment to the site, engaged the operator, and supervised the operation. However, in analyzing the elements of participation, the Public Prosecutor stated that M was involved in "purchasing gold" from gold panners or miners. This characterization does not have a sufficient connection with the principal factual sequence used to describe M's position in the PETI operation. As a result, the factual circumstances that could actually have provided a basis for establishing *medeplegen* were not placed at the center of the legal qualification.

This discrepancy must be distinguished from the issue of the validity of the indictment. In the cases examined, the reference to "purchasing gold" appears in the construction of the sentencing submission, while the description of the conduct in the case documents identifies M's role in providing equipment, arranging the site, engaging the

operator, and supervising the operation. This condition does not, by itself, establish a defect in the formulation of the indictment. Its more appropriate legal consequence concerns the strength of the prosecutorial reasoning, because the relationship between the facts described and the elements of *medeplegen* becomes less consistent. If the inaccurate characterization were used as the principal basis for establishing the form of involvement, the prosecutorial construction would become more difficult to trace and assess against the facts available in the case.

This issue demonstrates the importance of accurately characterizing the roles of the parties from the early stages of the criminal justice process. Rohman et al. (2024b) demonstrate that illegal mining typologies can be used to identify the forms of activity and the actors involved in a criminal operation, and that such typologies begin to take shape during the investigation stage and are subsequently incorporated into the prosecutor's indictment. This finding is relevant to Case 3 because the available facts already provide a basis for identifying M's function as the party who provided the equipment and organized the operation. The problem lies in the failure to connect that characterization accurately with the analysis of the elements. The weakness in Case 3 does not arise from the absence of facts concerning M's contribution, but from the inconsistency between those facts and the legal qualification constructed from them.

A comparison of the sentences sought shows that the Public Prosecutor differentiated the severity of the sentences sought. H was sentenced to 10 months, whereas P and M each received a sentence sought of one year. This difference indicates that the Public Prosecutor did not apply an identical sentencing level to all defendants. However, the sentencing submissions do not explicitly identify the parameters used to explain how differences in technical functions, control over equipment, economic interests, and organizational functions were translated into different sentences sought. Individualization is apparent in the outcome, but the basis for the weighting cannot be fully traced through the relationship between the degree of contribution and the sentence sought.

The comparison between H and P illustrates this issue more clearly. Both performed technical functions, but H owned and provided the equipment and received a share of the proceeds, whereas P worked for wages and had no control over the equipment or the operation as a whole. This distinction is relevant to determining the degree of involvement and the severity of the sentence sought. In Case 2, the Public Prosecutor distinguished P's position as a wage-based operator from that of the party who provided the equipment and supervised the operation. In Case 1, H's status as a worker was still treated as a mitigating circumstance even though the facts also demonstrated H's control over the equipment and economic interest in the operation. This condition indicates the need for a more measurable explanation of the relationship between the defendant's economic position and the severity of the sentence sought.

Comparison with the judgments further demonstrates that the sentence sought by the Public Prosecutor and the sentence imposed by the court constitute two distinct stages of assessment. H was subject to a sentence sought and an imposed sentence of 10 months, whereas P was subject to a sentence sought of one year and an imposed sentence of seven months, and M was subject to a sentence sought of one year and an imposed sentence of eight months. At the sentencing stage, the court considered individual circumstances such as admission, remorse, lack of prior convictions, economic motives, and family responsibilities. The differences between the sentences sought and

the sentences imposed demonstrate that the Public Prosecutor's sentencing submission does not determine the outcome of judicial sentencing. Accordingly, the reasons for determining the sentence sought need to be articulated explicitly so that they can be examined and compared with the court's assessment. A similar pattern was identified by Putriani et al. (2025), who found differences between the sentences sought by Public Prosecutors and the sentences imposed by courts in illegal mining cases.

The findings from the three cases indicate that the Public Prosecutor's considerations in determining the sentences sought comprise two distinct dimensions. The first is legal qualification, namely the relationship between the defendant's concrete conduct and the form of participation relied upon in the prosecution. The second is the individualization of the sentence sought, namely the assessment of the degree of contribution, the defendant's position, and other relevant circumstances in determining the severity of the sentence sought. Case 2 demonstrates a relatively more consistent construction in connecting technical work with conscious cooperation. Case 1 still reflects a conflation of different forms of participation, while Case 3 demonstrates an inconsistency between the factual description and the characterization of the defendant's role. These findings indicate that the quality of prosecutorial reasoning is determined not only by the existence of facts supporting the sentence sought, but also by the consistency of the relationship among the facts, the legal qualification, and the reasoning underlying the determination of the sentence.

Application of Deelneming Based on the Defendants' Conduct

The application of Article 20(c) of Law No. 1 of 2023 to the three cases demonstrates that *medeplegen* must be assessed based on the relationship among the defendant's concrete contribution, conscious cooperation, and the execution of the criminal offense. Differences in function among operators, equipment providers, and parties organizing the operation do not determine the applicable legal qualification without examining the relationship between each defendant's conduct and the execution of the offense. The central legal issue is whether the contribution provided formed part of the execution of the criminal offense within a framework of conscious cooperation.

In Case 1, H's contribution extended beyond operating the equipment. Control over the equipment, provision of the necessary resources, direct involvement in the operation, and an economic interest demonstrate a closer relationship with the execution of the mining activity than a wage-based employment relationship. This series of actions provides a factual basis for considering H's involvement as part of the joint execution of the offense. H's position demonstrates that technical contributions may be combined with control over equipment and economic interests within a single course of criminal conduct.

In Case 2, P's contribution was technical in nature through the operation of the excavator. P's status as a wage-based worker does not determine whether P satisfies the legal requirements of *medeplegen*. The assessment should instead focus on P's knowledge of the purpose for which the equipment was being used, willingness to perform the work, and the relationship between operating the excavator and the execution of the unlicensed mining activity. The operation of the equipment constituted a contribution directly connected to the execution of the activity, while the wage-based employment relationship reflected P's different economic position from the party who provided and controlled the equipment.

In Case 3, M's contribution did not consist of technical work, but of providing equipment and organizing the operation. Renting the excavator, arranging the use of the land, engaging the operator, and supervising the operation formed a series of actions that enabled the mining activity to take place. The fact that M did not operate the excavator does not diminish the relevance of M's contribution to the execution of the offense. In the context of *medeplegen*, a perpetrator's contribution need not correspond to every technical act constituting the offense, provided that a functional relationship exists between the contribution and the execution of the offense within a framework of conscious cooperation.

Case 3 also demonstrates the importance of distinguishing *medeplegen* from assistance in the commission of a criminal offense. The provision of equipment or other forms of support is insufficient to establish *medeplegen* when the contribution does not form part of the execution of the offense. In M's case, the contribution extended beyond providing equipment to arranging the site, engaging the operator, and supervising the operation. This series of actions placed M's contribution in a direct relationship with the execution of the mining activity and distinguished it from assistance that remains external to the execution of the offense.

A comparison of the three cases demonstrates that differences in function do not preclude the application of the legal qualification of *medeplegen*, but affect how the cooperative relationship and the contribution of each defendant are assessed. H combined technical functions with control over equipment and an economic interest. P performed technical functions as an operator under a wage-based employment relationship. M provided equipment and organized the operation. These differences demonstrate that the qualification of *medeplegen* is not determined by whether the defendants performed identical tasks, but by the relationship between each defendant's contribution and the execution of the criminal offense.

This distinction is consistent with doctrinal analysis concerning the division of contributions among multiple perpetrators in a single criminal offense (Sanawiah & Istani, 2022). The position of workers in informal mining activities also warrants consideration because employment relationships may place workers in an economic position different from that of parties who control the equipment or organize the operation. Ginting (2024) demonstrates that informal mining involves groups of workers who depend on extraction activities for their livelihoods. This perspective does not eliminate criminal liability, but reinforces the need to distinguish the form of contribution and position of each defendant when applying *deelneming*.

A comparison of the three cases further demonstrates that different forms of contribution may fall within the qualification of *medeplegen* when they are connected to the execution of the criminal offense and are carried out within a framework of conscious cooperation. In H's case, this relationship is reflected in the connection between the technical function, control over the equipment, and economic interest. In P's case, it is reflected in the operation of the excavator with knowledge of the purpose of the activity. In M's case, it is reflected in the provision of equipment and organizational actions directly connected to the execution of the operation. These differences demonstrate that the application of Article 20(c) should focus on the quality of the relationship between the defendant's conduct and the execution of the criminal offense, rather than on similarity in the type of work performed.

Overall, the application of *deelneming* in the three cases demonstrates that status as a worker, operator, or party organizing the operation is not sufficient to determine the applicable legal qualification. The assessment should focus on the concrete contribution, knowledge of the purpose of the activity, cooperative relationship, and connection between the contribution and the execution of the criminal offense. Case 1 demonstrates involvement encompassing technical functions, control over equipment, and an economic interest. Case 2 demonstrates that technical work performed on a wage basis may still fall within *medeplegen* where knowledge and conscious cooperation are established. Case 3 demonstrates that an organizational contribution may be relevant to *medeplegen* even when the defendant does not perform technical work. These findings demonstrate that the application of *deelneming* in PETI cases requires a precise connection between the defendant's concrete conduct and the structure of cooperation, rather than merely identifying the defendant's position within the mining operation.

Conclusion

The study demonstrates that the Public Prosecutor's considerations in determining the sentences sought against workers in PETI cases are based not only on occupational status, but also on the defendants' concrete conduct, nature of contribution, knowledge of the purpose of the activity, cooperative relationship, and degree of involvement in the execution of the criminal offense. The application of Article 20(c) of Law No. 1 of 2023 demonstrates that status as a worker or wage-based employee does not preclude the legal qualification of *medeplegen* where conscious cooperation and a contribution connected to the execution of the criminal offense are established. At the same time, differences in the degree of contribution and level of control over the operation should provide a basis for differentiating the severity of the sentences sought.

The application of *deelneming* in the three cases demonstrates that the qualification of *medeplegen* must be distinguished from the defendant's formal position as an operator, worker, or party organizing the operation. The assessment should focus on the relationship among the defendant's concrete conduct, contribution to the execution of the criminal offense, and cooperation with other parties. These findings confirm that the quality of prosecution depends on consistency among the facts of the case, the legal qualification of *deelneming,* and the reasoning underlying the individualization of the sentence sought. This study is limited to three PETI cases from 2026 analyzed through case documents. Future research may therefore expand the scope of cases and complement document analysis with interviews to examine considerations that are not recorded in official case documents.

Reference

Asnawi, E., & Oktapani, S. (2025). Efektivitas Penerapan Uu No. 3 Tahun 2020 Dalam Menangani Pertambangan Emas Ilegal Di Kabupaten Kuantan Singingi. *Lancang Kuning Law Journal*, *2*(1), 33–40.

Elisabeth Sinaga, Y. (2025). *Evaluasi Kebijakan Pengendalian Kerusakan Lingkungan Akibat Aktivitas Pertambangan Emas Tanpa Izin (PETI) di Kabupaten Tebo*. Ilmu Pemerintahan.

Ginting, F. A. (2024). Pertanggungjawaban Pidana Orang Yang Menyuruh Melakukan Tindak Pidana Illegal Mining Pasir Timah Dilaut Bangka Belitung. *Lex LATA*, *6*(2).

Halomoan, S., & Elfiani, F. (2026). Penegakan Hukum Pidana Terhadap Tindak Pidana Penambangan Emas Tanpa Izin Di Kabupaten Rokan Hulu. *Journal of Lex Mente*, *1*(1), 1–10.

Haris, D. M. (2025). Illegal Mining and Penal Law Enforcement in Lampung, Indonesia: Study for Environmental Justice and Governance. *Corruptio*, *6*(2), 103–116.

Haris, O. K. (2026a). *Buku Ajar Hukum Pertambangan di Indonesia*. CV Eureka Media Aksara.

Haris, O. K. (2026b). *Dinamika Hukum Pidana dan Eksekusi Sanksi di Sektor Pertambangan*. CV Eureka Media Aksara.

Iqbal, M., Nopriadi, N., Iryanti, I., & Pasla, R. (2023). Penertiban Penambangan Emas Tanpa Izin Di Wilayah Hukum Kepolisian Sektor Kuantan Mudik. *KODIFIKASI*, *5*(1), 31–40.

Iwari, D. P., Febryani, E., & Aprita, S. (2024). Optimalisasi Penegakan Hukum Perkara Pidana Penambangan Emas Tanpa Izin Yang Mengancam Keamanan, Integrasi Nkri Serta Konservasi Fungsi Lingkungan Hidup. *Collegium Studiosum Journal*, *7*(2), 628–634.

Jumelfis, A. R., Lestari, M. M., & Arfi, R. R. (2026). Efektivitas Penegakan Hukum Terhadap Pertambangan Emas Tanpa Izin (PETI) Di Kabupaten Kuantan Singingi: Analisis Yuridis Atas Kesenjangan Antara Regulasi dan Implementasi. *KODIFIKASI*, *8*(2), 59–79.

Kontu, H. R., Marwiyah, S., Prawesthi, W., & Amiq, B. (2024). Penegakan hukum terhadap pelaku tindak pidana pertambangan emas tanpa ijin (Studi kasus Putusan Nomor 107/Pid. Sus/2023/PN. Thn). *Lex Journal: Kajian Hukum Dan Keadilan*, *8*(1), 269–285.

Lubis, M. L. (2025). *Analisis Yuridis Tindak Pidana Turut Serta Melakukan Perbuatan Penambangan Emas Tanpa Izin (Studi Analisis Putusan Pengadilan Negeri Medan Nomor 233/Pid. Sus/2023/PN Mdn)*. Fakultas Hukum, Universitas Islam Sumatera Utara.

Marlinda, P. (2022). Difusi Kebijakan Penanggulangan Penambangan Emas Tanpa Izin Di Kabupaten Kuantan Singingi. *Jurnal Administrasi Politik Dan Sosial*, *3*(1), 1–9.

Melian, M., Pudiansa, P., Gumanti, R., Reflis, R., & Utama, S. P. (2024). Pertambangan Emas Tanpa Izin (Peti), Dampak Lingkungan, Sosial dan Ekonomi Serta Peranan Hukum Lingkungan di Kabupaten Lebong, Provinsi Bengkulu. *INSOLOGI: Jurnal Sains Dan Teknologi*, *3*(3), 339–344.

Meutia, A. A., Lumowa, R., & Sakakibara, M. (2022). Indonesian artisanal and small-scale gold mining—a narrative literature review. *International Journal of Environmental Research and Public Health*, *19*(7), 3955.

Movchan, R. O., Dudorov, O. O., Kamensky, D. V, Vozniuk, A. A., & Babanina, V. V. (2022). Criminal Liability For Illegal Mining: Analysis Of Legislative Novelties. *Scientific Bulletin of National Mining University*, *37*(5), 116.

Mustakim, M., Iryani, D., & Hartana, H. (2026). Law Enforcement against Illegal Gold Mining: Navigating Regulatory and Justice Dilemmas in Indonesia. *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam*, *18*(2), 256–268.

Nurfadila, N., Imfyan, H. D., & Zulkarnaini, Z. (2024). Efektivitas Kebijakan Penertiban Penambangan Emas Tanpa Izin Dalam Mengurangi Kerusakan Lingkungan Hidup di Kabupaten Kuantan Singingi. *PROSIDING SENADIKA: Seminar Nasional Akademik*, *1*(1), 916–926.

Permata, H. A., Ismed, M., & Basuki, B. (2025). Penegakan Hukum Pidana Terhadap Kerusakan Lingkungan Oleh Pertambangan Emas Tanpa Izin Dikabupaten Merangin. *Corpus Juris: Jurnal Ilmu Hukum*, *1*(2), 133–144.

Pratama, F., & Firdaus, M. (2023). Komunikasi Lingkungan Pemerintah Membangun Kesadaran Masyarakat Tentang Kegiatan Penambangan Emas Ilegal Di Kabupaten Kuantan Singingi. *Journal of Research and Development on Public Policy*, *2*(3), 203–212.

Putri, H. A. (2020). Penegakan Hukum Terhadap Pertambangan Emas Tanpa Izin Oleh Kepolisian Sektor Kecamatan Singingi. *Lex Renaissance*, *5*(4), 863–876.

Putriani, P., Nur, M., & Tasyukur, T. (2025). TINDAK PIDANA PENAMBANGAN ILEGAL (Studi Putusan Nomor 163/Pid. B/LH/2021/PN. Lsm). *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh*, *8*(3).

Ranggalawe, G. N., Susanti, I., & Fahmi, K. (2023). Dilema penegakan hukum penyelesaian pertambangan tanpa izin. *Marwah Hukum*, *1*(1), 29–40.

Redi, A. (2023). Responsive law enforcement in preventing and eradicating illegal mining in

Indonesia. *Journal of Law and Sustainable Development*, *11*(8), e1436.

Republik Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. https://id.wikisource.org/wiki/Pembukaan_UUD_1945

Republik Indonesia. (2020). *Undang-Undang (UU) Nomor 3 Tahun 2020 tentang Perubahan atas Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara*. Pemerintah Pusat republik Indonesia. https://peraturan.bpk.go.id/Details/138909/uu-no-3-tahun-2020

Republik Indonesia. (2021). *Undang-Undang Nomor 11 Tahun 2021 tentang Perubahan atas Undang-Undang Nomor 16 Tahun 2004 tentang Kejaksaan Republik Indonesia*. Republik Indonesia. https://peraturan.bpk.go.id/Details/195550/uu-no-11-tahun-2021

Republik Indonesia. (2023). *Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana*. Republik Indonesia.

Rohman, A., Hartiwiningsih, & Rustamaji, M. (2024a). Illegal mining in Indonesia: need for robust legislation and enforcement. *Cogent Social Sciences*, *10*(1), 2358158.

Rohman, A., Hartiwiningsih, & Rustamaji, M. (2024b). Improving ecological justice orientation through a typological approach to illegal mining in the criminal justice system. *Cogent Social Sciences*, *10*(1), 2299083.

Sanawiah, S., & Istani, I. (2022). Penegakan hukum pertambangan tanpa izin berbasis transendental. *Satya Dharma: Jurnal Ilmu Hukum*, *5*(1), 27–39.

Saragih, Y. M., Hadiyanto, A., & Prasetyo, M. S. E. (2022). Pengantar Hukum Pidana Transisi Hukum Pidana di Indonesia. *Medan: Tungga Esti*.

Simamora, I. P., & Saragih, Y. M. (2025). Kitab Undang-Undang Hukum Pidana Baru: Tafsir Dan Penerapan. *Penerbit Tahta Media*.

Sulaiman, B. (2023). Efektivitas Penegakan Hukum bagi Pelaku Pertambangan Emas tanpa Izin (Illegal Mining). *PATTIMURA Legal Journal*, *2*(2), 155–167.

Sumarni, F., & Saragih, Y. M. (2025). KUHP 2023 dalam praktik peradilan: Pedoman hakim, jaksa, dan advokat. *Penerbit Tahta Media*.

Supriyadi, A., Marwiyah, S., Amiq, B., & Prawesthi, W. (2023). Law Enforcement Against Organized Illegal Mining in the Jurisdiction of the East Kalimantan Regional Police. *Lex Journal: Kajian Hukum Dan Keadilan*, *7*(2), 489–510.

Tustinaningsih, I., & Akhmaddhian, S. (2025). Pertangungjawaban Hukum Pelaku Tindak Pidana Pertambangan Emas Ilegal Di Indonesia. *Savana: Indonesian Journal Of Natural Resources And Environmental Law*, *2*(02), 93–102.

Tute, C., & Puluhulawa, F. U. (2025). Analisis Pertimbangan Hakim dalam Kasus Pidana Illegal Mining: Menelisik Akar Disparitas Putusan di Peradilan. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, *3*(6), 8521–8537.

Uhlmann, D. M. (2014). Prosecutorial discretion and environmental crime. *Harv. Envtl. L. Rev.*, *38*, 159.

Uhlmann, D. M. (2018). Prosecutorial Discretion and Environmental Crime Redux: Charging Trends, Aggravating Factors, and Individual Outcome Data for 2005-2014. *Mich. J. Envtl. & Admin. L.*, *8*, 297.