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Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Case Title In The Context Of Determining A Suspect In The Law Enforcement Process Of The Ite Law In Terms Of The Syariah Maqashid Theory In Order To Achieve Justice

Prasetiyo Adhi Wibowo

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: Prasetiyoadhiwibowo@gmail.com

Abstract. *This research reviews the role of case designation in determining suspects in Electronic Information and Transaction (ITE) criminal cases by the Maqashid syariah approach to achieving justice. Maqashid syariah are sharia principles which aim to protect five main aspects, namely religion, soul, reason, lineage and property. This study involves an in-depth analysis of how case titles influence the process of determining suspects fairly in the context of ITE crimes. By understanding the principles of Maqashid Syariah, this research aims to provide a framework that helps law enforcers in determining suspects, by paying attention to universal principles of justice, while ensuring that the legal process runs accordance to moral and ethical values upheld in Islam. Hopefully, this research may make an important contribution to realize justice in handling ITE criminal cases based on universal principles and highly upheld sharia values.*

Keywords: *Justice; Law Enforcement; Maqashid Syariah.*



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1. Introduction

Determining a suspect is a very important initial stage in the judicial process in various legal systems around the world. At this stage, the authorities make a decision to designate someone as a suspect based on existing evidence or indications. The decision is not only has a significant impact to the person, but also reflects the principles of justice which are as the basis of a country's legal system. The process of determining a suspect cannot be taken lightly, because it is based on a collection of sufficient evidence or indications that give rise to the person who involved in a criminal act. In many legal systems, there are standards before a person designated as a suspect, such as the existence of sufficient evidence or reasonable grounds to suspect the individual. However, the decision to designate someone as a suspect is not only aimed at designating a target for further investigation.

This is also a reflection of the principles of justice which form the basis of a country's legal system. In this process, it is important to ensure that the decision is based on principles of justice, such as the presumption of innocence, the right to fair legal protection, and compliance with applicable laws and procedures. Thus, determining a suspect is not just an administrative step in the judicial process, but is also a manifestation of fundamental principles of justice in a country's legal system. This emphasizes the importance of integrity, transparency and sustainability in law enforcement in order to maintain public trust in the existing justice system.

Legal certainty has two aspects; first, the existence of general regulations that enable individuals to know which actions are permitted or prohibited, and second, providing legal protection to individuals from arbitrary government actions because the existence of general regulations allows individuals to know the obligations or actions that can be imposed or carried out by the State against individuals. This happens because the existence of general regulations allows individuals to know the obligations or actions that the State can impose or carry out on them. This doctrine of legal certainty originates from juridical-dogmatic principles which are based on the positivistic school of thought in the field of law. This school tends to view law as something autonomous and independent, because according to the positivist view, law is just a collection of autonomous rules. For adherents of this school, the main goal of law is to ensure legal certainty. This legal certainty is realized through general legal rules. The general nature of legal rules shows that the law does not aim to realize justice or benefit, but merely to uphold certainty.

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The objectives of this law include, among other things, achieving an orderly and peaceful society, realizing justice, and realizing prosperity and happiness or prosperity. However, this violence can be balanced with gentleness, namely justice. Although it needs to be acknowledged that justice is not the only goal of law, the real or most important goal of law is justice itself. When this is understood, law enforcement must be based on justice by considering the principles of legal certainty and legal expediency. As has been explained, the implementation of these three legal objectives of course takes into account the principle of "priority principle".

In Islamic law, determining the suspect also has a very important role. Islamic law not only regulates criminal law procedures, but also offers a comprehensive view of justice and the protection of human rights. In this framework, the Maqashid Sharia theory becomes an important basis for interpreting and applying Islamic law in everyday life. Maqashid syariah used by considering several things, including Islamic law which comes from God's revelation and was prepared to be implemented by humans. Maqashid Syariah, or the objectives of Islamic sharia, refers to universal principles that aim to protect and improve human life. These goals include the maintenance of religion, soul, mind, offspring and property. In the context of determining suspects, Maqashid syariah theory emphasizes the importance of maintaining justice as one of the main goals of Islamic law. However, in practice, there are challenges that can threaten justice in the process of determining suspects. This can be caused by abuse of authority, discriminatory practices, or other systemic injustices that may occur in the legal system. Therefore, it is important to examine in depth the concept of case title in the context of Maqashid syariah so that the process of determining suspects is in accordance with the principles of justice mandated by Islam. By understanding the concept of case title within the Maqashid syariah framework, it is hoped that we can find more appropriate solutions to maintain justice in the process of determining suspects.

A. PROBLEMS IDENTIFICATION

This writing is limited by formulating the problem as follows:

1. How is the concept of case designation in determining suspects based on law enforcement of the ITE understanding?
2. How can Maqashid syariah principles apply to understand and evaluate case designation process in law enforcement of the ITE?

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2. Research Methods

Research methods are a way or way to obtain solutions to all problems. In research, it is known that there are several types of theories to apply one of the relevant methods to certain problems. This research is descriptive analytical in nature which aims to accurately describe the individual characteristics of a particular symptom, situation or group. Analytical descriptive research reveals laws and regulations related to the theories of their implementation in society

1. Type of Research

The legal research carried out uses socio-legal research methods with the aim of describing or illustrating case titles in the context of determining suspects in the law enforcement process of the ITE in terms of sharia magasid theory to achieve justice. This research aims to be studied and researched as a study of law that actually occurs in society, with a non-doctrinal and empirical approach. Meanwhile, it is known that sociological legal research emphasizes

2. Research Approach

Based on the problems studied by researchers, the research approach used is a sociological approach or socio-legal research, namely a research approach that examines the legal perceptions and behavior of people (humans and legal entities) that occur in the field. Then on this occasion the researcher also used a descriptive qualitative approach. According to Moleong, the qualitative approach produces descriptive data in the form of written or spoken words from informants and observed behavior that is not expressed in variables or hypotheses.

3. Techniques of Data Collection

Data collection techniques are carried out by taking primary and secondary data. Primary data is processed by grouping and compiling data based on predetermined criteria regarding case titles in the context of determining suspects in the law enforcement process of the ITE in terms of the sharia magasid theory in order to achieve justice. This approach involves understanding the legal reality and existing aspects through verstehen or interpretive methods.

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4. Population and Sample

Population is the entire unit of analysis within the research target. The population in this study are investigators from the Ditreskrimsus Polda West Kalimantan. The population in this research are the officers of Cyber Sub-Directorate. This research use a nonprobability sampling method. The samples taken in this research chosen deliberately to meet the needs of analysis of the phenomenon under study. The samples in this research consisted of 5 members of the Cyber Sub-Directorate.

B. Data analisys

1. Cyber Subdit Overview

In organizational management context, the role of human resources (HR) is considered a crucial factor in achieving organizational goals. HR not only formulates goals, but also carries out processes to achieve them. Human presence is the essence of organizational work activities because they are intrinsically involved in productive activities. Management develops due to collaboration between individuals to achieve common goals. However, increasing human resources in Sub-Directorate 5 of the Ditreskrimsus Polda West Kalimantan is still not optimal, especially in terms of the quantity and quality of human resources, which is not in line with the urgent need to increase their capacity.

a. Quantity

The number of officers in Subdit 5 Ditreskrimsus West Borneo describes in this table below:

Tabel 1.1

Data Personel Subdit 5 Ditreskrimsus Polda Kalbar

No	Work Unit	rank	DSP	Rill
1		Pamen	5	2

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	Subdit 5 Ditreskrimsus Polda Kalbar	Pama	6	3
		Bintara	16	18
		Banum	2	2
Jumlah			29	23

Sumber : Data Subdit 5 Ditreskrimsus Polda Kalbar

b. Quality

Based on the quality, the competency skills generally, the quality of knowledge and attitude human resources in Sub-Directorate 5 of the Ditreskrimsus Polda West Kalimantan can be described as follows:

Tabel 1.2

Quality of Personels Subdit 5 Ditreskrimsus Polda West Kalimantan Data

No	Satker	Pangkat	Rill
1	Subdit 5 Ditreskrimsus Polda Kalbar	Pamen	2
		Pama	3
		Bintara	1

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		Banum	0
Jumlah			6

Sumber : Data Subdit 5 Ditreskrimsus Polda Kalbar

2. The Overview of ITE Case Data in Cyber Sub-

Based on the results of observations at the Cyber Sub-Directorate Polda West Kalimantan regarding data on ITE cases handled from 2022 to 2024, there has been a significant increase in the case development process from investigation to deep investigation. From the observed data, there is an increasing trend in cases being officially investigated and followed up through the investigation process. This shows the intensification of law enforcement efforts against violations of the ITE Law in the region. The data is as follows:

Tabel 1.3

ITE Cases in 2022 to 2024 which followed up to case designation

No	Year	Number of target cases	Case Designation
	2022	40 cases	40 cases
	2023	40 cases	40 cases
	2024	36 cases	36 cases

Sumber : Data Subdit 5 Ditreskrimsus Polda Kalbar

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3. Results and Discussion

3.1. The Concepts of Case Designation in Determining Suspects Based on Law Enforcement of the ITE Act Understanding

In an effort to fulfill President Jokowi's Nawacita hopes regarding to mental revolution, the National Police has been required to be more than just a ruler, but also as a law enforcer, servant and protector of society. One important aspect in law enforcement is determining the suspect in a case, which is based on the case designation process. According to Article 1 number 14 of the Criminal Code, a suspect is someone who is reasonably suspected of committing a criminal act based on preliminary evidence. This process is regulated in Police Chief Regulation 12 of 2009 and the Criminal Procedure Code. Detention of a suspect only can be carried out if there is sufficient evidence, while stopping the investigation also requires a case process. The case designation is the stage where the results of the inquiry and investigation are presented to the title participants for responses and corrections. The aim is to ensure that decisions are taken in accordance with applicable procedures. In the context of law enforcement of the ITE Law, filing a case is an important step to ensure justice and transparency in determining suspects.

The case designation process allows related parties to provide responses and corrections, so that the decision to determine a suspect is based on adequate evidence and in accordance with applicable legal provisions. The elements of criminal liability are that a person or perpetrator of a criminal act will not be held criminally responsible or sentenced to a crime if he has not committed a criminal act and the criminal act must be against the law, but even if he commits a criminal act, he cannot always be punished. Thus, a good understanding of the concept of case designation in law enforcement of the ITE act is important to maintain the integrity of the criminal justice system and ensure public trust in law enforcement. Based on the results of observations obtained by researchers with 5 members of the Cyber Sub-Directorate, the following results were obtained:

Table 1.4

Concept of case designation in determining suspect in law enforcement of the ITE act

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No	Alternatives	Frequency	%
1	Confirming decision	1	20
2	Confirming justice	2	40
3	Transparency in determining suspect	2	40

Source : Observation of Subdit 5 Ditreskrimsus Polda West Kalimantan's personels result

Based on the results of the answers in the table above, it can be concluded that members of the West Kalimantan Regional Police's Cyber Sub-Directorate were the concept of case titles in determining suspects in law enforcement of the ITE Law in terms of ensuring the decision by 1 person (20%) and then ensuring justice by 2 people (40%) and translation determined 2 suspects (40%) so that the total data collection amounted to 100%. Based on the results of the answers in the table, it can be concluded that

a. The aspect of ensuring the decision of 1 person (20%):

1) Experience and knowledge

Members who are more experienced or have greater knowledge of the legal process may be more confident in making decisions.

2) Organization culture

The culture or norms within a unit or organization may place a greater emphasis on fairness and transparency than on decision making.

3) Perception of risk

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Members may feel that the risks associated with decision making are greater than the risks associated with fairness and transparency.

4) Personal Factor

Personal factors such as values, beliefs, or individual preferences can influence how members assess the importance of decision making in determining a suspect.

b. Ensuring justice for 2 people (40%)

1) Awareness of human rights

Have a strong awareness of human rights, including the right of every individual to be treated fairly and presumed innocent until proven otherwise.

2) Submission to law and procedure

Members of the West Kalimantan Police Cyber Sub-Directorate may understand the importance of complying with applicable laws and procedures in identifying suspects.

3) Preventing the abuse of power

Justice is considered as a means to prevent abuse of power in law enforcement. By emphasizing justice, members of the Cyber Sub-Directorate try to ensure that the determination of suspects is carried out based on objective evidence and procedures, not because of subjective considerations or certain motives.

4) Increasing institutional legitimacy

By prioritizing aspects of justice, members of the Cyber Sub-Directorate try to increase the legitimacy and trust of the public in law enforcement institutions.

c. Transparency in determining 2 suspects (40%)

1) Transparency of process in determining suspect

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Members of the Cyber Sub-Directorate may see the importance of carrying out the suspect determination process in an open and transparent manner, so that the public can see and understand the reasons behind the suspect determination.

2) Building public trust

By ensuring transparency in the process of determining suspects, members of the Cyber Sub-Directorate can build public trust in law enforcement institutions and ensure that decisions taken are based on fair and transparent principles.

3) Community involvement

By carrying out the process of determining suspects transparently, members of the Cyber Sub-Directorate can involve the public in monitoring and evaluating law enforcement performance, thereby providing a greater sense of responsibility and accountability. It can be concluded that members of the West Kalimantan Police Cyber Sub-Directorate have a fairly good awareness of the importance of aspects of justice and transparency in carrying out their duties in enforcing the ITE Law. Even though only a few prioritize decision making, a strong understanding of the concept of case law shows their commitment to the principles of fair and transparent law enforcement.

3.2. Principles of Maqasid Sharia Theory Can Be Applied to Understand and Evaluate the Case Title Process in Law Enforcement of the ITE Act

In the era of technology and information dominate almost every aspect of life, protecting personal and social interests become increasingly complex. One area that continues to face this challenge is law enforcement, especially in the context of the Information and Electronic Transactions Law (UU ITE). As a regulation that affects many aspects of modern life, enforcement of the ITE Law requires a careful and principles-based approach that is in line with the values of justice, humanity and diversity. In relation to this, it is important to consider the use of the principles of Maqashid syariah theory in understanding and evaluating the case title process in law enforcement of the ITE Law. Maqasid Syariah, which literally means the goals of Islamic sharia, emphasizes the importance of maintaining five main principles: religion, soul, reason, lineage, and property.

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These principles provide a comprehensive framework for assessing the success and fairness of the application of the law. The principles of Maqashid syariah theory can be used to understand and evaluate the case process in law enforcement of the ITE Law. Maqashid syariah is a concept that emphasizes the main objectives of Islamic sharia, which include protecting religion, soul, mind, lineage and property. In the context of law enforcement of the ITE Law, these principles can be applied as follows:

a. Ensuring legal enforcement (*Hifz al-Din*)

This principle emphasizes the protection of religion and beliefs. In enforcing the ITE Law, the case process must ensure that the actions taken are in accordance with religious principles and do not harm or violate the rights of individuals in carrying out their beliefs.

b. Ensuring reasonable applicability (*Hifz al-Aql*)

This principle emphasizes the importance of maintaining individual intelligence and thinking. In law enforcement of the ITE Law, the case process must be based on strong evidence and based on logic and common sense, so that there is no abuse of power or arbitrariness.

c. Ensuring the continuity of the offspring (*Hifz al-Nasl*)

This principle refers to the protection of lineage and family. In enforcing the law on the ITE Law, the case process must consider the impact of the action taken on the family and related descendants, and ensure that the decision taken does not harm the rights of the family and descendants.

d. Ensuring the validity of assets (*Hifz al-Mal*)

This principle emphasizes the protection of individual property and ownership. In the context of the ITE Law, the case process must ensure that the action taken does not harm or confiscate individual property without clear reasons and is in accordance with applicable law.

By applying Maqashid syariah principles in law enforcement of the ITE Law, a strong foundation for justice, humanity and diversity is guaranteed. Maqashid syariah focuses on protecting human rights, such as religion, soul, mind, lineage and property. In law enforcement of the ITE Law, the implementation of Maqashid syariah ensures that the legal process does not only focus on

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technicalities or formalities, but also pays attention to the impact on individuals and society as a whole. This ensures that in addition to compliance with legal norms, the main objectives of Islamic sharia, such as justice, humanity and diversity, can be achieved in a modern and complex law enforcement context.

4. Conclusion

From the description, it can be concluded that the following things form the following conclusions:

1. The personels of the West Kalimantan Police Cyber Sub-Directorate have a fairly good awareness of the importance of aspects of justice and transparency in carrying out their duties in enforcing the ITE Law. Even though only a few prioritize decision making, a strong understanding of the concept of case law shows their commitment to the principles of fair and transparent law enforcement.
2. Implementation of Maqashid syariah ensures that the legal process does not only focus on technicalities or formalities, but also pays attention to its impact on individuals and society as a whole.

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