

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

The Dynamics of Law and Justice in The Perspective of Illegal Mining Law Enforcement in West Borneo

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Abstract. *The enforcement of illegal activities in the perspective of law and justice is the main focus of this research, especially in the context of West Kalimantan Province. Law enforcement that does not comply with prevailing legal provisions can lead to systemic injustice. This research explores the dynamics of law and justice in the context of illegal law enforcement in West Borneo, highlighting the involvement of Islamic law in the process. Through a qualitative approach, data is collected from various sources, including interviews with policymakers, legal practitioners, and local communities. The findings highlight the complexity of challenges faced in enforcing illegal activities, including issues of legality, culture, and society. This research also considers the impact and implications of illegal law enforcement on social justice and legal stability in West Kalimantan. The findings of this study are expected to provide deeper insights into the dynamics of law and justice in the context of illegal law enforcement in the region.*

Keywords: *Dynamics of Law; Justice in The Perspective; Illegal Mining Law Enforcement.*

1. Introduction

West Kalimantan Province, located in the western part of the island of Kalimantan, Indonesia, boasts cultural, ethnic, and religious diversity. In this context, law enforcement serves as a crucial foundation for maintaining social stability and justice. However, like other regions in

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Indonesia, West Kalimantan also faces challenges of illegal law enforcement, often resulting in systemic injustice. Law enforcement is an effort to translate the desired ideas and legal concepts of the community into reality. It's a complex process involving various factors and diverse elements.¹ In a country, the function of overseeing government actions serves two main purposes. First, it aims to ensure that the government conducts its activities in accordance with the applicable legal norms. This serves as a preventive measure to deter any legal violations that may harm society or individuals. Second, oversight is also intended to restore the situation to its state prior to the occurrence of legal violations. This constitutes a repressive effort aimed at enforcing legal rules and punishing violations that have occurred.²

The evolving legal concepts today are a continuation of a legal system originally based on central political power. According to Soetandyo, this shift can be divided into three stages. First, during the pre-colonial era, law was based on morality. Then, there was a transformation during the colonial period, where colonial law became dominant. Finally, during the independence era, this colonial law continued to be developed and taught in law schools.³ The evolving legal concepts today are a continuation of a legal system originally based on central political power. According to Soetandyo, this shift can be divided into three stages. First, in the pre-colonial era, law was based on morality. Then, there was a transformation during the colonial period, where colonial law became dominant. Finally, during the independence era, this colonial law continued to be developed and taught in legal schools.⁴

Fair law enforcement and the reality of illegal practices are the main focus in discussing the dynamics of law and justice in West Kalimantan. Illegal law enforcement in West Kalimantan can take various forms, including abuse of power by law enforcement officials, corruption, non-compliance with applicable legal procedures, and other illegal practices. Abuse of power often occurs in the form of discrimination against minority groups or in matters related to certain political and economic interests. Additionally, corruption is also a serious issue that erodes public trust in the legal system. Furthermore, illegal law enforcement referring to Islamic Sharia is also a complex issue. Although fundamentally aimed at achieving justice based on religious principles, its practice often raises questions about equality of rights and treatment among citizens of different beliefs. This can create interreligious tensions and threaten social harmony.

¹ Dellyana, Shant, 1988, Konsep Penegakan Hukum, Yogyakarta, Liberty, hal 32.

² Kusno, 2017, Implementasi Pemberian Izin Pemanfaatan Tanah Untuk Pembangunan Hotel di Kabupaten Labuan Batu, Jurnal Ilmiah Advokasi, Vol 05, No 02, ISSN : 2337 – 726, h 15.

³ Soetandyo Wignjoseobroto, 2013, Pergeseran paradigm dalam kajian kajian sosial dan hukum, (Setara press: Malang), h 21.

⁴ Herman Hermit, 2008, Pembahasan Undang- Undang penataan ruang, Bandung, Mandra maju, h.68

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The enforcement of illegal law in West Kalimantan is also reflected in its impact on society. Community members who become victims of illegal practices often do not have equal access to the legal system or are unable to pursue their rights fairly. Consequently, systemic injustice continues to deepen social and economic disparities. Therefore, it is important to comprehensively examine the dynamics of law and justice in the perspective of illegal law enforcement in West Borneo. Through a deeper understanding of the challenges, implications, and gaps between expectations and reality, necessary improvement measures can be identified to strengthen the legal system and achieve true justice for all residents of West Borneo.

2. Research Methods

The research method is an approach or strategy used to gain a better understanding of an issue or phenomenon. In the research process, there are various methods used to obtain data, analyze information, and achieve solutions to the researched problem. Additionally, the use of research methods often requires the application of relevant theories to support and guide the research process.⁵ This research is a type of descriptive analytical research aimed at accurately describing the characteristics of an individual phenomenon, condition, or specific group. The focus is on gaining a deep understanding of the phenomenon under investigation by identifying relevant variables and explaining the relationships between these variables.

1. Research Type

This legal research utilizes the method of socio-legal research with the intention to describe or depict the dynamics of law and justice in the perspective of law enforcement regarding illegal mining in West Borneo. The aim of this study is to be learned and examined as a study of law that truly occurs within society, with a non-doctrinal and empirical approach. While it is known that socio-legal research emphasizes

2. The Research Approach

Based on the issues investigated by the researcher, the research approach used is a sociological or socio-legal research approach. This approach examines the perceptions and legal behaviors of individuals, both human and legal entities, that occur in the field. In this context, the researcher also employs a descriptive qualitative approach. According to Moleong, a qualitative approach produces descriptive data in the form of written or oral

⁵ Joko Subagyo, 2004, *Metode Dalam Teori dan Praktek*, Jakarta, PT Rineka Cipta, hal 1.

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words from informants and observed behaviors that are not expressed in variables or hypotheses.

4. Data Collection Techniques

The data collection technique is carried out by gathering primary and secondary data. This approach involves understanding the legal reality and its aspects through the *verstehen* or interpretative method.

5. Population and Sample

The population is the entirety of the units of analysis within the research scope.⁶ The population in this study is the investigators of Subdit 4 Ditreskrimsus of the West Kalimantan Regional Police. The population in this study consists of members of Subdit 4 Ditreskrimsus of the West Borneo Regional Police. This study uses Nonprobability sampling method. The samples selected for this study are intentionally chosen to fulfill the analytical needs of the phenomenon under investigation. The sample in this study consists of 5 members of Subdit 4 Ditreskrimsus of the West Borneo Regional Police.

3. Results and Discussion

3.1. Dynamic of Illegal Mining Law Enforcement in West Kalimantan

In this context, illegal mining refers to mining activities conducted without the state's permission, particularly without land rights, mining permits, and exploration or mineral transportation permits. According to the prevailing law, illegal mining is considered a criminal offense in the mining sector prohibited by the Mining Law and its amendments. There are two types of penalties imposed for violating the prohibition provisions in the Mining Law, namely administrative penalties and criminal penalties. Additionally, offenders may also face additional sanctions.⁷

Administrative sanctions may be imposed on holders of Mining Business Licenses (Izin Usaha Pertambangan - IUP), People's Mining Permits (Izin Pertambangan Rakyat - IPR), or Special Mining Business Licenses (Izin Usaha Pertambangan Khusus - IUPK) in the event of violations of certain provisions as mentioned in Article 151 (Amendment to the Mining Law). Illegal mining activities are also regulated in Article 160 of the Mining Law, which states that any person

⁶ W. Gulo, *Metode Penelitian*, Jakarta: PT. Grasindo, 2010, h, 77

⁷ Prianter Jaya Hariri, *Penegakan Hukum Tindak Pidana Illegal Mining*, Info Singkat, Vol. XIII, No.15/I/Puslit/Agustus/2021, h.3

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holding an IUP or IUPK in the Exploration stage but engaging in Production Operations shall be punished with imprisonment for a maximum of 5 (five) years and a fine of up to Rp 100,000,000,000.00 (one hundred billion Indonesian Rupiah)

According to the observations obtained by the researcher with 5 members of Subdit 4 Ditreskrimsus of the West Kalimantan Regional Police regarding the dynamics of law enforcement against illegal mining in West Kalimantan, the results obtained are as follows.

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No	Alternative	Frekuensi	%
1	Availability of Natural Resources	3	60
2	Regulatory Changes	1	20
3	Community Participation	1	20

Source: Data from Subdirectorate 4 of the Criminal Investigation Directorate of West Borneo Regional Police

Based on the results in the table above, it can be concluded that members of Subdit 4 of the West Kalimantan Regional Police's Criminal Investigation Directorate (Ditreskrimsus) who are involved in the dynamics of illegal mining law enforcement in West Kalimantan are as follows: 3 individuals (60%) related to the availability of natural resources, 1 individual (20%) related to regulatory changes, and 1 individual (20%) related to community participation. Thus, the total data collection amounts to 100%. Based on the results in the table, it can be concluded that

a. Availability of Natural Resources for 3 People (60%)

The factor of natural resource availability plays a crucial role in the dynamics of law enforcement against illegal mining. In the context of West Kalimantan, the presence of abundant natural resources such as gold mines, coal, and others, has a significant impact on illegal mining activities

1) Natural Resource Attraction

The regions like West Kalimantan often become the primary target for illegal miners due to its vast natural resources. The abundant natural resources attract the attention of those who seek quick profits without considering the legality and environmental impact.

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2) The Lack of Supervision

The abundance of natural resources is often not matched with adequate supervision. This can be caused by various factors, such as limited human and technological resources, corruption, and insufficient coordination among relevant institutions. Inability to effectively monitor allows illegal mining operators to operate without significant hindrance

3) Local Economy

Illegal mining activities are often seen as an economic alternative for local communities, especially when formal employment options or other alternatives are limited. The abundance of natural resources can create a situation where illegal mining is perceived as an attractive economic opportunity, particularly for those in less privileged socioeconomic layers

4) Legal Instability

The diversity of rules and regulations within the mining industry can create legal loopholes exploited by illegal mining operators. This situation exacerbates when these regulations change inconsistently or are poorly implemented

b. The regulation change involves one person (20%).

Regulatory changes are an important factor in the dynamics of law enforcement against illegal mining, albeit recognized by only a small portion of respondents. This indicates that changes in rules and regulations related to illegal mining have a significant impact on law enforcement efforts. Here are some further explanations regarding this factor:

1) Response to New Challenges

The change in regulations often responds to new challenges emerging in the context of illegal mining. For instance, the emergence of new technologies in the mining process or shifts in tactics used by illegal miners may prompt governments to update existing rules and regulations to ensure they remain relevant and effective in addressing the issue.

2) Refinement of Law Enforcement

Changes in regulation can also aim to enhance law enforcement efforts by granting additional authority to law enforcement agencies, increasing penalties for violations, or clarifying existing law enforcement procedures. This can help improve the effectiveness of law enforcement and send a strong signal to illegal mining operators that their activities will not be tolerated.

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3) Environmental Protection

Regulatory changes often aim to enhance environmental protection as well. Illegal mining activities often result in serious environmental damage, including deforestation, destruction of wildlife habitats, water and air pollution, as well as land degradation. By altering regulations to tighten controls on illegal mining activities and increasing penalties for environmental violations, the government can strive to protect vulnerable natural environments.

c. Community Participation of 1 Person (20%)

Community participation is an important factor in the dynamics of law enforcement against illegal mining, although it is only acknowledged by a small fraction of respondents in the analysis. Active involvement of the community in detecting, reporting, and supporting law enforcement against illegal mining can make a significant contribution to effectively addressing this issue. Here are some explanations about this factor:

1) Early detection

Local communities often have better knowledge and understanding of their living environment. Community involvement can help detect illegal mining activities that may occur in their area earlier, thus enabling law enforcement to respond quickly before greater environmental damage or economic loss occurs.

2) Information Reporting

Through active participation of the community in reporting illegal mining activities to the authorities, law enforcement can obtain valuable information that can be used as evidence in investigations and law enforcement. Communities that feel supported and benefited by law enforcement tend to be more willing to provide information and cooperate with authorities

3) Moral and Social Support

Community involvement can also provide moral and social support to authorities in their efforts to address illegal mining. Support from the community can strengthen the legitimacy and authority of the authorities, as well as encourage stakeholders to collaborate in solving this issue.

Therefore, the results shown in the table indicate that law enforcement against illegal mining in West Kalimantan is the outcome of interactions among factors such as the availability of

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natural resources, regulatory changes, and community involvement. The involvement of various parties in this effort is key to achieving effective and sustainable law enforcement.

3.2. The Role of Islamic Law in the Process of Enforcing Illegal Mining Laws in West Kalimantan, and Its Implications for Social Justice

The participation of Islamic Sharia in enforcing laws against illegal mining in West Kalimantan involves several complex factors. First, the principles of Islamic Sharia provide a strong moral and ethical foundation for addressing environmental issues and the exploitation of natural resources. This includes concepts such as the obligation to preserve the environment, fairness in resource utilization, and protecting community rights to environmental sustainability. From the perspective of Islamic Sharia, the natural environment is considered a trust that must be preserved and protected by humans. The principle of environmental preservation is reflected in the concept of "khalifah fil ardh" or stewardship of the earth as a human duty. Thus, illegal mining that damages the environment constitutes a violation of these principles. Additionally, Islamic Sharia emphasizes the principle of comprehensive justice, where every individual and group has equal rights to natural resources and a sustainable environment. In the context of illegal mining, law enforcement based on the principles of Islamic Sharia can help ensure that justice is upheld by respecting community rights, protecting the environment, and preventing unfair exploitation of natural resources.

The implications of Islamic Sharia's involvement in enforcing laws against illegal mining include very important aspects of social justice. By making the principles of Islamic Sharia a guide, governments and law enforcement agencies can ensure that law enforcement efforts are carried out fairly and justly for all parties, without discrimination and abuse of power. Firstly, the principles of Islamic Sharia emphasize comprehensive justice, where every individual and group has equal rights to natural resources and a sustainable environment. In the context of enforcing laws against illegal mining, this means that everyone has the right to live in a healthy and safe environment and to benefit from existing natural resources without unfair exploitation. Furthermore, by considering Islamic Sharia as a guideline, governments and law enforcement agencies can avoid discrimination in law enforcement. Sharia

principles demand equal treatment for all individuals under the law, regardless of their religious background, ethnicity, or social status. Thus, the involvement of Islamic Sharia can help ensure that law enforcement efforts are not influenced by irrelevant factors and that every lawbreaker is treated fairly according to the applicable laws.

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Moreover, the principles of Islamic Sharia also oppose the abuse of power by governments or law enforcement agencies. By considering Islamic Sharia as a guideline, the government and law enforcement agencies in West Kalimantan can be reminded to act transparently, responsibly, and in accordance with the rule of law. This can help prevent abuses of power that could harm society and the environment. Thus, the implications of Islamic Sharia's involvement in enforcing laws against illegal mining are that it can help ensure that law enforcement efforts are conducted fairly, justly, and in accordance with the principles of social justice upheld in Islam. This can provide better protection for society and the environment from the negative impacts of illegal mining, as well as create a better and more sustainable legal system overall.

4. Conclusion

From the description provided above, it can be concluded that the following points serve as conclusions: 1. Law enforcement against illegal mining in West Kalimantan is the result of interactions between factors such as the availability of natural resources, regulatory changes, and community participation. The involvement of various parties in these efforts is key to achieving effective and sustainable law enforcement. 2. The implications of the involvement of Islamic Sharia in the enforcement of illegal mining laws are that it can help ensure that law enforcement efforts are carried out fairly, justly, and in accordance with the principles of social justice upheld in Islam. This can provide better protection for society and the environment from the negative impacts of illegal mining, as well as create a better and more sustainable legal system overall.

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