

## THE DYNAMICS OF LAW AND JUSTICE IN THE PERSPECTIVE OF *ILLEGAL MINING* LAW ENFORCEMENT IN WEST KALIMANTAN

Qahar Awaka<sup>1</sup> Lomba Sultan<sup>2</sup>, Abdul Wahid Haddade<sup>3</sup>, Munadi<sup>4</sup>

<sup>1,2,3</sup>Universitas Islam Negeri Alauddin Makassar, Indonesia

<sup>4</sup>Universitas Sultan Muhammad Syafiiuddin Sambas, Indonesia

Coresponden E-mail: Qahar@gmail.com

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### ABSTRACT

The purpose of this research is illegal law enforcement 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 is not in accordance with applicable 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 Kalimantan, highlighting the role of Islamic law in the process. Through a qualitative approach, data was collected from various sources, including interviews with policy makers, legal practitioners, and local communities. The results highlight the complexity of the challenges faced in enforcing illegal laws, including legal, cultural and social issues. The research also considers the impact and implications of illegal law enforcement on social justice and legal stability in West Kalimantan. The findings of this research are expected to provide deeper insights into the dynamics of law and justice in the context of illegal law enforcement in the region.

**Keywords:** Legal Dynamics; Justice; *Illegal Mining* Law Enforcement

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### A. INTRODUCTIO

West Kalimantan Province, located in the western part of Kalimantan Island, Indonesia, has cultural, ethnic and religious diversity. In this context, law enforcement is an important foundation for maintaining social stability and justice. However, like other regions in Indonesia, West Kalimantan is also faced with the challenge of illegal law enforcement that often creates systemic injustice. Law enforcement is an effort to transform legal ideas and concepts desired by society into reality. It is a complex process involving various factors and diverse elements (Dellyana, 1998) . Within a state, the

oversight function of government action has two main purposes. First, it aims to ensure that the government carries out its activities in accordance with applicable legal norms. It acts as a preventive measure to prevent any violation of the law that may harm society or individuals. Second, oversight is also intended to restore the situation to the state it was in before the violation of legal norms occurred. This is a repressive effort that aims to enforce the rule of law and punish legal violations that have occurred (Kusno, 2017)

The legal concepts that are developing today are a continuation of the legal system that was originally based on centralized political power. According to Soetandyo, this shift can be divided into three stages. First, in the pre-colonial period, law was based on morality. Then, there was a transformation during the colonial period, where colonial law became dominant. Finally, during independence, this colonial law continued to be developed and taught in law schools (Wignjoseobroto, 2013). Illegal law enforcement is a serious concern because it can cause disparity between expectations and reality in achieving justice. While society's expectation is the realization of a fair and effective legal system, in reality, illegal law enforcement practices often lead to inequality, discrimination and human rights violations. By prioritizing the principle of justice as the most fundamental legal principle, every direction, framework, and approach in making laws and regulations, including laws relating to spatial planning, must be rooted in the principle of justice (Hermit, 2008)

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 many forms, including abuse of power by law enforcement officials, corruption, non-compliance with applicable legal procedures, and other illegal practices. Abuse of power often takes the form of discrimination against minority groups or in matters relating to certain political and economic interests. In addition, corruption is also a serious problem that erodes public confidence in the legal system. In addition, the enforcement of illegal laws that refer to Islamic law is also a complex issue. Although it basically aims to realize justice based on religious principles, its practice often raises questions about equal rights and treatment among citizens of different faiths. This can create interfaith tensions and threaten social harmony.

Illegal law enforcement in West Kalimantan is also reflected in its impact on communities. Community members who are victims of illegal practices often do not have equal access to the legal system or are unable to fairly claim their rights. As a result, systemic injustices continue to deepen social and economic disparities. Thus, it is important to comprehensively examine the dynamics of law and justice in the perspective of illegal law enforcement in West Kalimantan. Through a deeper understanding of the challenges, implications, and gaps between expectations and reality, remedial measures needed to strengthen the legal system and achieve true justice for all citizens of West Kalimantan can be identified.

## B. METHODS

Research method is an approach or strategy used to gain a better understanding of a problem or phenomenon. In the research process, there are various methods used to obtain data, analyze information, and achieve a solution to the problem under study. In addition, in using research methods, it is often necessary to apply relevant theories to support and direct the course of research. This research is a type of analytical descriptive research that aims to describe precisely the individual nature of a particular symptom, situation, or group. The focus is on an in-depth understanding of the phenomenon under study by identifying relevant variables and explaining the relationship between these variables.

This legal research uses the *socio-legal research* method with the intention to describe or illustrate the dynamics of law and justice in the perspective of *illegal* mining law enforcement in West Kalimantan. This research aims to be studied and researched as a study of the law that actually occurs in society, with a non-doctrinal and empirical approach. While it is known that sociological legal research emphasizes. Based on the problems studied by researchers, the research approach used is a sociological approach or *socio-legal research* method. This approach examines the perceptions and legal behavior of people, both humans and legal entities, which occur in the field. On this occasion, researchers also used a descriptive qualitative approach. According to Moleong, a 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.

Data collection techniques are carried out by taking primary and secondary data. This approach involves understanding the legal reality and its aspects through the *verstehen* or interpretative method of Töpfer. Population is the entire unit of analysis in the research target (Sugiyono, 2015). The population in this study were investigators of Subdit 4 Ditreskrimsus Polda West Kalimantan. In this study, the population was members of Subdit 4 Ditreskrimnsus Polda West Kalimantan. This research uses the *Nonprobability sampling* method. The samples taken in this study were selected deliberately to meet the needs of the analysis of the phenomenon under study. The samples in this study consisted of 5 members of Subdit 4 Ditreskrimsus Polda West Kalimantan.

## C. RESULTS AND DISCUSSION

### Dynamics of *Illegal Mining* Law Enforcement in West Kalimantan

*Illegal mining* in this context, refers to mining activities carried out without state permission, especially without land rights, mining permits, and mineral exploration or transportation permits. According to the prevailing positive law, illegal mining is one of the criminal acts in the mining sector that is prohibited under the Minerba Law and Amendments to the Minerba Law. There are two types of sanctions applied to violators of the prohibited provisions in the Minerba Law, namely administrative sanctions and criminal sanctions. In addition, the perpetrator may also be subject to additional sanctions (Hariri, 2021). Administrative sanctions can be imposed on holders of Mining Business License (IUP), People's Mining License (IPR), or Special Mining Business

License (IUPK) in the event of a violation of several provisions as stated in Article 151 (Amendment to the Minerba Law). illegal mining activities are also regulated in Article 160 of the Minerba Law which states that every person who has an IUP or IUPK at the Exploration activity stage but carries out Production Operation activities shall be punished with a maximum imprisonment of 5 (five) years and a maximum fine of IDR 100,000,000,000.00 (one hundred billion rupiah).

According to the results of observations obtained by researchers with 5 members of Subdit 4 Ditreskirmsus Polda West Kalimantan regarding the dynamics of *illegal mining* law enforcement in West Kalimantan, the following results were obtained

Table 1. Dynamics of *Illegal Mining* Law Enforcement in West Kalimantan

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

Source: Observation of Members of Subdit 4 Ditreskirmsus Polda West Kalimantan

Based on the results of the answers in the table above, it can be concluded that members of Subdit 4 Ditreskirmsus Polda West Kalimantan who are the dynamics of law enforcement of *illegal mining* in West Kalimantan in terms of the availability of natural resources as many as 3 people (60%) regulatory changes as many as 1 person (20%) and community participation as many as 1 person (20%) so that the total number of data collection is 100%. Based on the answers in the table, it can be concluded that

a. Availability of natural resources 3 people (60%)

The availability of natural resources plays an important role in the dynamics of law enforcement against illegal mining. In the context of West Kalimantan, the existence of abundant natural resources, such as gold, coal and other mines, has a significant impact on illegal mining activities.

b. Natural Resource Attraction

Regions such as West Kalimantan are often prime targets for illegal miners due to their vast natural wealth. Abundant natural resources attract the attention of those who want to make quick profits without regard to legality and environmental impact.

c. Lack of Supervision

The availability of abundant natural resources is often not matched by adequate monitoring. This can be caused by various factors, such as limited human resources and technology, corruption, and lack of coordination between relevant institutions. The inability to effectively monitor allows illegal mining perpetrators to operate without significant obstacles.

d. Local Economy

Illegal mining activities are often considered an economic alternative for local communities, especially if formal employment options or other alternatives are limited. The availability of abundant natural resources can create a situation where illegal mining

is perceived as an attractive economic opportunity, especially for those in the poorer strata of society.

e. Legal Instability

The diversity of rules and regulations that apply to the mining industry can create legal loopholes that are exploited by illegal mining actors. The situation worsens when these regulations change inconsistently or are not implemented properly.

f. Regulation Change 1 Person (20%)

Regulatory change is an important factor in the dynamics of law enforcement against illegal mining, although only recognized by a small proportion of respondents. This shows that changes in rules and regulations related to illegal mining have a significant impact on law enforcement efforts. Below are some further explanations of this factor:

1) Response to New Challenges

Regulatory changes are often a response to new challenges that arise in the context of illegal mining. For example, the emergence of new technologies in the mining process or shifts in the tactics used by perpetrators of illegal mining may prompt governments to update existing rules and regulations to ensure that they remain relevant and effective in addressing the issue.

2) Law Enforcement Enhancement

Regulatory changes may also aim to enhance law enforcement efforts by granting additional powers to law enforcement agencies, increasing sanctions for violations, or clarifying existing enforcement procedures. This can help improve the effectiveness of law enforcement and send a strong signal to illegal miners that their activities will not be tolerated.

3) Environmental Protection

Regulatory changes often also aim to improve environmental protection. Illegal mining activities often cause serious environmental damage, including deforestation, destruction of wildlife habitat, water and air pollution, and land degradation. By changing regulations to tighten controls on illegal mining activities and increase sanctions for environmental violations, governments can seek to protect vulnerable natural environments.

g. Community participation 1 person (20%)

Community participation is an important factor in the dynamics of law enforcement against illegal mining, although only recognized by a minority of respondents in the analysis. The 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. Below are some explanations of this factor:

1) Initial Detection

Local communities often have a better knowledge and understanding of the environment in which they live. Community involvement can help detect illegal

mining activities that may be occurring in their area early, allowing law enforcement to respond quickly before environmental damage or greater economic loss occurs.

2) Information Reporting

Through active community participation in reporting illegal mining activities to the authorities, law enforcement can obtain valuable information that can be used as evidence in investigation and 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 the authorities in their efforts to tackle illegal mining. Support from the community can strengthen the legitimacy and authority of the authorities, and encourage relevant parties to work together to resolve this issue.

Thus, the answers in the table show that law enforcement against illegal mining in West Kalimantan is the result of the interaction between factors such as the availability of natural resources, regulatory changes, and community participation. The involvement of various parties in this effort is key to achieving effective and sustainable law enforcement.

### **The Role of Islamic Sharia in the Law Enforcement Process of *Illegal Mining* in West Kalimantan, and Its Implications for Social Justice**

The participation of Islamic Sharia in illegal mining law enforcement in West Kalimantan involves several complex factors. First, the principles of Islamic Sharia provide a strong moral and ethical foundation in addressing environmental issues and natural resource exploitation. This includes the concept of the obligation to protect the environment, to be fair in the use of resources, and to protect people's rights to environmental sustainability. In the perspective of Islamic Sharia, the natural environment is considered a trust that must be maintained and preserved by humans. The principle of the obligation to protect the environment is reflected in the concept of "khalifah fil ardh" or the maintenance of the earth as a human duty. As such, illegal mining that damages the environment is a violation of these principles. In addition, 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 Sharia principles can help ensure that justice is served by respecting people's rights, protecting the environment, and preventing unjust exploitation of natural resources.

The implications of the involvement of Islamic Sharia in illegal mining law enforcement include a very important aspect of social justice. By using the principles of Islamic Sharia as guidelines, the government and law enforcement agencies can ensure that law enforcement efforts are carried out fairly and equitably for all parties, without discrimination and abuse of power. First of all, 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 illegal mining law enforcement, this means that everyone has the right to live in a healthy and safe environment, and to enjoy the benefits of existing natural resources without unjust exploitation. Then, by looking at Islamic Sharia as a guideline, the government and law enforcement agencies can avoid discrimination in law enforcement. Sharia principles demand equal treatment for all individuals before the law, regardless of their religious background, ethnicity or social status. Thus, the involvement of Sharia can help ensure that law enforcement efforts are not influenced by irrelevant factors and that every lawbreaker is treated fairly in accordance with the applicable law.

In addition, the principles of Islamic Shari'ah also oppose the abuse of power by the government or law enforcement agencies. By looking to 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 the community and the environment. Thus, the implication of the involvement of Islamic Sharia in illegal mining law enforcement is that it can help ensure that law enforcement efforts are conducted fairly, equitably and in accordance with the principles of social justice upheld in Islam. This can provide better protection for communities and the environment from the negative impacts of illegal mining, as well as create a better and more sustainable legal system overall.

#### D. CONCLUSION

Law enforcement against *illegal mining* practices in West Kalimantan is the result of the dynamic interaction between the availability of natural resources, regulatory changes, and active community participation. The effectiveness and sustainability of law enforcement is determined by the synergy of various parties involved in legal supervision, enforcement and education efforts, so as to create mining governance in accordance with the principles of justice and environmental sustainability.

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