

The Accountability of Local Government's Discretion in Resolving Illegal Mining in Bone Regency

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Abstract: The purpose of this research is to analyze the accountability of local government's discretion in illegal mining in Bone Regency. The study used a more specific qualitative approach. Data collection is done by observation, interview and documentation, and research data, that is data reduction, data display, and image / verification conclusion. The result of the research shows that authority related to supervision is done to the central government that is mining inspector is legal aspect which grows regional bureaucratic discretion in the calculation of wild defender, to execute the illegal miners are on the police side while the authority of local government and province is Through the coaching of ethics (ethical) that emerged in this study. The functional officer who supervises such a strong mining inspector is 6 people and who is required to have professionalism in a position mandated by a regulatory mandate that is in the supervision of the center in which on the mine inspector. Expertise in mining mapping requires accurate data and precise methods of closed polygon forms. In the public interest aspect, the most concerned about the public is the developing environment as it is muddy because of the wild mining activities. The accountability of discretionary aspects that have been described indicates at the legal and ethical level so that the accountability of the Bone district government can be done with the tactical action of the provincial government that can do the discretion with the formation of the Integrated Team.

Keywords: Discretion, Accountability, Mining Wild.

INTRODUCTION

Public demands on clean governance, transparency and accountability must be taken seriously by the local government. Various components in the area must have a shared commitment to uphold good governance and clean government, because the government requires an effective external monitoring to control the actions of the government in terms of organizing governance and development. Accountable governance received support from the public. The existence of public confidence in what is planned and executed the local government presenting a desirable condition for the realization of good governance.

Accountability is actually the key to the concept of good governance that is now being strengthened in stretching and globalizing world situation. Accountability uphold equitable and responsiveness to people's needs is the resultant of the process and the principles of good governance (transparency, The effectiveness, efficiency) and globalization (democracy and competition). In other words, in the context of globalization, good governance has become a parameter and demands of society on the performance of the government apparatus. Government officials initially relied on the principle of responsibility (responsibility) and obligation (liability) must now turn toward accountability [1]. In the context of governance, government accountability can not be known without

the government telling people about the connection with the collection of information resources and community, along with its use [2].

Local government as one of the responsible parties provide to the public welfare, the authority has the authority to regulate and plan the direction and development goals that will be run by the region [3].

In the implementation of the functions of government, local government act must be based on authority owned and not on power. The use of discretion must be based on the power of the government apparatus. Discretion as free any authority can not be done without the authority granted by the legislation.

Discretion as free government authority is the authority possessed by the apparatus of government, discretion is used as opposed to the authority bound gebonden bevoegdheid [4]. The nature and character of the government action requires government power is not simply implement the law (principle wetmatigheid van bestuur), but should put forward "doelstelling" (setting goals) and a regulation (policy).

Related to legislation Discretion is contained in Law No. 30 Year 2014 on Government Administration. Under Article 1 Point 9 of Law No. 30

of 2014, discretion is the decisions and / or actions are assigned and / or carried out by government officials to address the issue of the concrete facing in governance in terms of legislation that gives the option, do not set , incomplete or unclear, and / or stagnation of government.

Peraktek discretion can be said to arise in which the supervisory authority of the mining issue is now in the central level, the condition is an obstacle to curb illegal mining because the supervisory authority which is now in the hands of central government. Nevertheless, local governments have to take the initiative to form a team together with the integrated monitoring sectors in the regencys / cities in curbing the illegal mining.

Illegal mining activity is increasing in South Sulawesi. Number most numerous in Bone regency by the number of miners as much as 65 miners. Data Department of Energy and Mineral Resources (ESDM) Sulsel noted, throughout 2015 report illegal miners in South Sulawesi reached 354 cases. The case was an increase from 2014 when there were 122 illegal miners or up 54 percent. (Corner of South Sulawesi, 2016).

Although mining is done at the central level oversight but a mining license has been transferred to the respective regency or city. To that local authorities are obliged to maintain the area of companies that engage in illegal mining.

Moreover, illegal mining often do not think about long-term impacts that could damage the area in and around the mine. Such actions can be done in the realm of local authorities.

The nature and legal law determine the presence initiative government's action to ensure the existence of a legal principle of legality. The implementation of course there is an effect that meaning leads to a legal certainty. Thus the government freedom of action is very possible by the law and meet the elements of the government's discretion [5].

Previous research that Astuti reveal [6], when the accountability system to be effective, the use of discretion will be controlled so as not to leave the normative parameters. Discretion is different in this study emphasizes the accountability activities that occur.

Therefore accountability of discretion that made a key question that must be answered regency government Bone in the realm of the practice of good governance that promote accountability and transparency, especially in the restriction of mining permits should be able to reduce the growth of illegal

mining but the condition can not be realized even happen otherwise that an increase in the number of illegal mines each year. This situation is considered to have the urgency to explore the scientific approach of the concepts and theories that are relevant to the study of public administration.

RESEARCH METHODS

This research is located at the Department of Energy and Mineral Resources of South Sulawesi with consideration needs to conduct research to determine the accountability of government discretion in dealing with illegal mining in Bone regency which is now taken over by the government of South Sulawesi province. In research using a qualitative approach that is specifically directed more case study design. To facilitate the determination of informants in the field, researchers are targeting the key informant is Head of Mining and Energy and Mineral Bone regency, Head of Oil and Gas Mining and Energy, Employee Technical Implementation Unit, Office of Energy and Mineral Resources, South Sulawesi Province and the village community Karella and Bone Pute which can provide the information needed by researchers related to illegal mining in the Bone regency. Data collection techniques used in this study is the observation by direct observation in the field in accordance with the object under study. directly to the informant interviews using interview guide. Documentation for the study of literature / literature, documents, and other written sources with ties to the need for data and information on this research. Data analysis techniques in this study refers to the model of Miles and Huberman which suggests that activity in the qualitative data analysis performed interactively and continues over time and through, so that the data is already saturated. Activity in the data analysis, namely data reduction, a data display, and conclusion drawing / verification [7].

FINDINGS AND DISCUSSION

For Local Government Discretion Accountability knows to Address Illegal Mining in Bone regency, this research can be seen through the following aspects:

Legal aspects

Legal criteria relating to their legal compliance or not in conflict with the applicable rules relating to mining management. There are a number of rules in the illegal mining issue. One is Act No. 4 of 2009 on Mineral and Coal Mining. Where to implement the provisions of Article 144 of Law No. 4 of 2009 on Mineral and Coal, need to establish a Government Regulation on Fostering and Supervision Management of Mineral and Coal Mining. Therefore, the set Indonesian Government Regulation No. 55 Year 2010 About the Development and Control of Management of Mineral and Coal Mining.

Through these rules the Minister to guide the implementation of the management of mining operations carried out by the provincial government and regency / city governments in accordance with their authority.

Based on the interview can be seen that the mining authority related to monitoring carried out at the central government that the mine inspectors. More On Regulation of the Minister of Energy and Mineral Resources No. 34 2017 About licenses on Mineral and Coal Mining outlined that the Minister assigns heads of provincial agencies in charge of energy and mineral resources to implement some of its authority and duties of chief inspector of mines in validating the technical lead mine , card issuing operations supervisor, mengesahan head underground mines, blowing up card issuing permits, approved the construction of storage facilities / accumulation of explosives and liquid fuel, providing purchase recommendation and use of explosives, blasting approved the implementation of the bed.

Ethical aspects

Based on the interview show that irresponsible attitude shown by the miners they disappear when there are public and the authorities who came to the site therefore legal action was the decent thing to do because of the adverse conditions of the community.

From a review aspects of ethics in the level of government has a number of limitations, based on the results of the interview can be seen that the authority to execute the illegal miners there to the authorities (police) while the local government authority and province are put through guidance to the miners to obtain permission mining legally. Therefore it takes a synergy shared between each of the parties miners regional and provincial governments as well as the police to tackle this illegal mining problems.

Professionalism aspect Apparatus

Based on the data obtained can be seen that there is a functional demanded officials in charge of mining as the mining inspector, amounting to 6 people and are required to have the technical professionalism that is investigating the earth as much as 7 people. While other employees in the Department of Energy and Mineral Resources tasks include; nyelenggaraan government affairs and public services in the field of mining, geology and mineral resources, and utilization of electrical energy, oil and gas; Implementation of licensing in general mining and mineral resources; Coaching and implementation of common tasks in the field of mining and mineral resources, implementation of co-administration in the field of mining and mineral resources.

knowledge (expertise)

Based on the interview can be seen that the special skills required for employees of the Department of Energy and Mineral Resources of South Sulawesi's from the field data collection and also support secondary data from the Departments of Energy and Mineral Resources of South Sulawesi. From the results of the field survey for mining activities within the scope of the area consists of several miners merge into one data of the group will be included in a report illegal in South Sulawesi province. There are a number of methods used in mapping the implementation of this requires a special kehlian of staff at the Department of Mines and Energy South Sulawesi.

Based on the interview can be known methods or systems used in mapping the implementation of the mining area is a closed polygon method bound. The position of each point measured markers have geographic coordinates such that each point has a certain position, then in order to know the actual position on the map as well as on the actual situation in mining activities. In the first implementation of the mapping is done by determining the boundaries of the mining site to determine the point markers, followed by measurement of coordinates at each point markers using GPS, further illustrate the sketch location. The measurement results will be in the form of point coordinates Iizin Territory Mining (WIUP) or the People's Mining Region (WPR).

Public interest

Based on the interview can be obtained picture that disturbed the public interest is environmental issues. From the results of the inventory at the time of consultation with the Department of Energy and Mineral Resources in the Regency throughout South Sulawesi, the obtained activity controlling mining without a permit in this area are generally only seeking mining commodities rocks like batugunung, stone and river sand (gravel), gravel, clay, and gold are scattered in 23 regencys and cities.

Mining activity Undocumented (illegal) is conducted by people not only in Bone regency, but also in other regions in South Sulawesi, including in mining commodities such as soil piled rocks, mountain stone, river sand, gravel and sand stone (gravel).

Mining activities undertaken by these communities is long overdue and is done individually and in groups by using equipment that is quite simple such as a crowbar, shovel hammer stone crushers, and sometimes using mechanical equipment such as suction pump sand and excavator (excavator) for mining operations ground timbun and batugunung by way of lease (rental) or on-premise.

Discretion Accountability

Problem of illegal mining in Bone regency is dilemma because environmentally sound mining practices becomes a necessity. Mining right and good so far has been the spirit of the mining industry official. Illegal deviation also can not be denied exacerbated the bad impression of the mining industry as a destroyer of the environment. Mining supervision authority problems exist in the central government.

Based on the interview can be seen that the control of mining in the provinces and the central government. Supervision by the central Mine conducted by inspectors who are employees of the ministry were stationed in the province. While the province also has the authority to conduct audits on illegal mining, assisted by police officers and execution of the illegal proven mining done by the police.

Based on secondary data obtained it can be seen that there are 26 miners lair / illegal no permit, among the 26 miners are five illegal miners who mined the communist special landfill soil and 21 which mines Sirtu community. Based on the interview can be obtained by the understanding that the necessary consultations with technical agencies to inventory mining activities without permission (illegal), mapping of mining sites in the framework of the preparation of maps Regional Mining License (WIUP) and the Regional People's Mining (WPR), as well as consultation with local authorities in the issuance of a mining business license (IUP) production and People's mining permit (IPR).

From the results of the study also found that the discretionary measures that can be taken is to conduct formation Terhadap team which followed up concretely by writing the regents and mayors in the regency / city plan related to the establishment of the Integrated Monitoring of Illegal Mining. Chief of Police, Head of the Environment Agency in the regency / city and municipal police to ask for support related to the planned formation of the Integrated Monitoring Teams. The presence of the Integrated Supervision Team is very important because it will be very difficult if only relied supervisory oversight of the provincial government and central ministries.

Theoretically, the bureaucracy can use different types of discretion in accordance with the type of policy, but often the decision is made not appropriate discretion. The appropriateness of the use of discretion can be reviewed on the parameters used and the results obtained from the decision. Astuti, [6] discretion has a very important role in all aspects of the life of the nation. Primarily written in to fill the void provision, as well as the rigid flex (rigid) and are already using (out

of date). Even adjusting the present context better and more beneficial to society [8].

The task of government is not passive (only implement the law) but actively organizing public order and welfare. On the other hand there is no legislation that can reach all aspects of society, but rather the nature of the general arrangement impersonal and abstract. Every decisions of discretion must be based on the spirit and the feelings were always asking us these officials regarding the appropriateness of the decision to be taken. To test the validity of the theory of discretion may use that includes three aspects, namely authority, procedure and substance [9].

Overall views of bureaucratic discretion parameter that is legal, ethics (ethical), Professionalism, knowledge (expertise), and the public interest (public interest) shows that the legal aspect gives an overview of mining authority related to monitoring carried out at the central government that the mine inspectors. More On Regulation of the Minister of Energy and Mineral Resources No. 34 2017 About licenses on Mineral and Coal Mining outlined that the Minister assigns heads of provincial agencies in charge of energy and mineral resources to implement some of its authority and duties of chief inspector of mines in validating the technical lead mine , card issuing operations supervisor, mengesahan head underground mines, blowing up card issuing permits, approved the construction of storage facilities / accumulation of explosives and liquid fuels,

On the ethical aspects (ethical) the authority to execute the illegal miners there to the authorities (police) while the local government authority and province are put through guidance to the miners in order to obtain a mining permit legally. Therefore it takes a synergy shared between each of the parties miners regional and provincial governments as well as the police to tackle this illegal mining problem.

Furthermore, in the aspect of professionalism, shows that There are functional demanded officials in charge of mining as the mining inspector, amounting to 6 people and are required to have the technical professionalism that is investigating the earth as much as 7 people. While other employees in the Department of Energy and Mineral Resources tasks include; nyelenggaraan government affairs and public services in the field of mining, geology and mineral resources, and utilization of electrical energy, oil and gas; Implementation of licensing in general mining and mineral resources; Coaching and implementation of common tasks in the field of mining and mineral resources, implementation of co-administration in the field of mining and mineral resources,

In the aspect knowledge (expertise), note that the special skills required for employees of the Department of Energy and Mineral Resources of South Sulawesi's from the field data collection and also support secondary data from the Departments of Energy and Mineral Resources of South Sulawesi. Then methods or systems used in mapping the implementation of the mining area is a closed polygon method bound. The position of each point measured markers have geographic coordinates such that each point has a certain position, then in order to know the actual position on the map as well as on the actual situation in mining activities.

In the aspect public interest, the thing that most affects the public interest is environmental issues. From the results of the inventory at the time of consultation with the Department of Energy and Mineral Resources in the Regency throughout South Sulawesi, the obtained activity controlling mining without a permit in this area are generally only seeking mining commodities rocks like batugunung, stone and river sand (gravel) and etc. Mining activities undertaken by these communities is long overdue and is done individually and in groups by using equipment that is quite simple such as a crowbar, shovel hammer stone crushers, and sometimes using mechanical equipment such as suction pump sand and excavator (excavator) for mining operations pile ground and mountain stone by rent or on-premise.

Parameter fifth overall of bureaucratic discretion can be concluded that mining authority related to monitoring carried out at the central government that the mine inspectors the legal aspects that limit the discretion of local-level bureaucracy in addressing illegal mining, to execute the illegal miners there to the authorities (police) while the local government authority and province are put through coaching ethically it is this limitation (ethical) that emerged in this study. Functional officials who became superintendent of mining as the mining inspector, amounting to 6 people and are required to have an office mandated professionalism in connection with the mandate of the regulation that requires supervision is in the central government which is represented on a mine inspector. Expertise in mining mapping requires data accuracy and appropriate methods are bound closed polygon method. In the aspect public interest, the thing that most affects the public interest is environmental issues detrimental to society as a muddy road for illegal mining activities.

Accountability of discretionary aspects that have been described showing some restrictions on legal and ethical aspects so that the accountability of government in Bone regency can be done with a tactical move of the provincial government to conduct discretionary with the establishment of the Integrated be

followed up with concrete wrote to the regents and mayors in the regency / city plan related to the establishment of the Integrated Monitoring of Illegal Mining. Chief of Police, Head of the Environment Agency in the regency / city and municipal police to ask for support related to the planned formation of the Integrated Monitoring Teams. The presence of the Integrated Supervision Team is very important because it will be very difficult if only relied supervisory oversight of the provincial government and central ministries. Needed synergy of all parties, both from the central government, provincial and local governments and the police as an executor.

CONCLUSION

Mining authority related to monitoring carried out at the central government that the mine inspectors the legal aspects that limit the discretion of local-level bureaucracy in addressing illegal mining, to execute the illegal miners there to the authorities (police) while the local government authority and province are put through coaching ethically it is this limitation (ethical) that emerged in this study. Functional officials who became superintendent of mining as the mining inspector, amounting to 6 people and are required to have an office mandated professionalism in connection with the mandate of the regulation that requires supervision is in the central government which is represented on a mine inspector. Expertise in mining mapping requires data accuracy and appropriate methods are bound closed polygon method. In the aspect public interest, the thing that most affects the public interest is environmental issues detrimental to society as a muddy road for illegal mining activities. Accountability of discretionary aspects that have been described showing some restrictions on legal and ethical aspects so that the accountability of government in Bone Regency can be done with a tactical move of the provincial government to conduct discretionary with the establishment of the Integrated Team. Therefore we need the formation of the Supervisory Team Integrated filled by the police chief, the head of the Environment Agency in the government regency / city and municipal police to further restrict illegal miners in the area which particular in Bone regency, considering the difficulty if these controls are only relying on supervisors from the provincial government and while components of the central ministry of local government get out of hand simply because of limited authority.

REFERENCES

1. Suryanto, 2010. Menyoal Desentralisasi Fiskal: Mempertanyakan Akuntabilitas Keuangan Pemerintahan Daerah. STIA LAN Lembaga Administrasi Negara.
2. Darwanis & Chairunnisa, Sephi. 2013. Akuntabilitas Kinerja Instansi Pemerintah. Jurnal Telaah & Riset Akuntansi Vol. 6, No. 2.

3. Meutia, Esa. 2015. Akuntabilitas Pemerintah Daerah Dalam Penyajian Informasi Penyelenggaraan Pemerintahan Daerah (Ilppd) Kota Padang Panjang. Akuntabilitas Pemerintah Daerah Kota Padang Panjang dalam Penyajian ILPPD, Vol. 01, No. 01.
4. Haris, K Oheo. 2014. Aspek Hukum Pidana Dalam Kaitannya Dengan Perizinan Di Bidang Pertambangan. *Yuridika*, Vol. 29, No. 3.
5. Ragawino, Bega. 2006. *Hukum Administrasi Negara*, Bandung: Universitas Padjadjaran.
6. Astuti, Sri Juni Woro. 2010. Akuntabilitas Diskresi Birokrasi di Era Otonomi Daerah. *Jurnal Masyarakat, Kebudayaan dan Politik (MKP)*. Volume 23, Nomor 2.
7. Wati, A. S. (2015). Peranan Pembelajaran Pendidikan Kewarganegaraan Dengan Materi Ham Dalam Menumbuhkan Social Sensitivity Peserta Didik (Doctoral dissertation, Universitas Pendidikan Indonesia).
8. Susilo, Agus Budi, 2015. Makna dan kriteria diskresi Keputusan dan/atau tindakan pejabat publik dalam mewujudkan tata pemerintahan yang baik. *Jurnal Hukum dan Peradilan*. Vol. 4 No. 1.
9. Ridwan, 2009. Diskresi (Freies Ermessen) oleh Pejabat pemerintah rambu hukum, alat ukur keabsahan, dan kecermatan dalam penggunaannya. *Jurnal Media Hukum*. Vol. 16, No. 3.