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Illegal Oil Drilling in the Theoretical View of Imam Ghazali

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Abstract: Illegal oil drilling is a phenomenon that is rampant in Indonesia and causes various negative impacts, such as environmental pollution, work accidents, social conflicts, and economic losses for the country. In Islam, every economic activity must take into account the principle of mashlahah put forward by Imam Al-Ghazali, which is to maintain the five main aspects of life (al-daruriyyat al-khamsah): religion (al-din), soul (al-nafs), intellect (al-aql), heredity (al-nasl), and property (al-mal). This study aims to analyze the practice of illegal oil drilling from the perspective of Imam Al-Ghazali's mashlahah theory to assess the extent to which these activities provide benefits or actually cause more damage (mafsadah). Through the conceptual approach and approach of Islamic law with the method of literature study, this study found that illegal oil drilling caused more mafsadah than mashlahah. This activity is contrary to the principle of life protection due to the high risk of accidents, damaging the environment that has a bad impact on future generations, and causing economic losses that harm the state and society. Therefore, from the perspective of mashlahah, illegal oil drilling cannot be justified and must be prevented through stricter policies, strict law enforcement, and economic empowerment of the community so that it does not depend on illegal activities.

Keyword: Illegal Oil Drilling, Mashlahah, Imam Al-Ghazali, Mafsadah.

INTRODUCTION

Illegal oil drilling is a phenomenon that is rampant in various regions, especially in areas that have abundant petroleum reserves. These activities are often carried out by individuals or groups without official permission from the government and without regard for safety standards and environmental impact. Illegal oil drilling has far-reaching consequences, both from economic, social, environmental, and legal aspects. On the one hand, this practice can provide economic benefits for local communities whose livelihoods depend on the exploitation of natural resources. However, on the other hand, illegal oil drilling also causes various negative impacts, such as environmental pollution, losses to the state due to loss of revenue from the energy sector, and increased risk of work accidents.

In the study of Islamic legal philosophy, if a person carries out activities, it must be based on the principle of rejecting all forms of madharat (danger). Rejecting the intended harm

is to maintain the purpose of syarak, which is to maintain religion, soul, intellect, descendants, and property. In this case, maintaining the five aspects of the purpose of sharia is called mashlahah.

Mashlahah in Arabic means good or positive (Munawwir, 1997). Mashlahah also means benefit or a job that contains benefits (Hasan, 1971). Meanwhile, in terminology, Mashlahah can be interpreted as taking benefits and rejecting madharat (danger) in order to maintain the purpose of sharia (Islamic law) (Harun, 2009).

According to Imam al-Ghazali, what is meant by Al-mashlahah is as follows:

المصلحة فهي عبارة في الاصل عن جلب منفعة او دفع مضرة. ولسنا نعني به ذلك. فان جلب المنفعة ودفع المضرة مقصد الخلق. وصلاح الخلق في تحصيل مقاصدهم. لكننا نعني بالمصلحة المحافظة على مقاصد الشرع من الخلق خمسة وهو ان يحفظ عليهم دينهم، ونفسهم، وعقلهم، ومالهم. فكل ما يتضمن حفظ هذه الاصول الخمسة فهو مصلحة. وكل ما يفوت هذه الاصول فهو مفسده، ودفعه مصلحة (Al-Ghazali, 1971)

Meaning: "Al-mashlahah in its original sense is to attract benefits or reject madharat (something that causes harm), but this is not what we want, because the cause of achieving benefits and denying madharatan, is the goal or intention of beings, while the goodness or fame of creatures lies in the achievement of their goals, but what we mean by al-Mashlahah is to maintain or maintain the purpose of the Shari'a', as for the purpose of the Shari'a related to the five beings, namely: the maintenance of them (the creatures) towards their religion, their soul, their intellect, their nasab or descendants, and their wealth, then anything that contains or includes the maintenance of the five basic points is al-Mashlahah, and anything that denies the five basic points is mafsadah, while also rejecting it (something that denies the five basic points) is al-Mashlahah."

The above meaning is simplified by al-Khawarizmi as quoted by Wahbah Az-Zuhaili as follows:

والمراد بالمصلحة المحافظة على مقصد الشرع بدفع المفاسد عن الخلق (Zuhaili, 1986)

Meaning: "What is meant by mashlahah is to maintain the purpose of Islamic law by rejecting disasters or damage to harmful things from creatures (humans)".

From an Islamic perspective, all forms of economic activity must meet the principle of benefit (mashlahah), which is to provide benefits to individuals and society at large and avoid harm (loss) (Asiah, 2020). Imam Al-Ghazali, a great scholar in the field of jurisprudence and Sufism, formulated the concept of mashlahah as the main consideration in determining policies related to the public good. According to him, an action is considered famous if it can maintain five main aspects of human life, namely religion (al-din), soul (al-nafs), intellect (al-aql), heredity (al-nasl), and property (al-mal) (Hidayatullah, 2018). Therefore, it is important to examine the practice of illegal oil drilling within the framework of Imam Ghazali's mashlahah theory in order to understand whether such actions can be justified or whether they are contrary to Islamic principles.

This study aims to examine the practice of illegal oil drilling in the perspective of Imam Ghazali's mashlahah theory. By understanding how the concept of mashlahah is applied in the context of natural resource exploitation, this research is expected to provide a more comprehensive insight into Islamic business ethics and the contribution of Islamic thought in overcoming contemporary socio-economic problems.

METHOD

The type of research used is using the normative legal research method or library research, namely through obtaining data and then turning it into one legal data as well as studying, reviewing, analyzing and reviewing legal data through literature related to the legal issues discussed. (Soekanto, 2012).

The research approach in this journal uses a conceptual approach, and an Islamic law approach. A conceptual approach is used to analyze concepts in the practice of illegal mining in illegal oil mining. Then the approach of Islamic law to analyze the views of Islamic law is

primarily by using the opinion of Al Maslahah from Imam Ghazali on the act of illegal oil mining..

RESULTS AND DISCUSSION

Imam Al Ghazali's Views on Al Mashlahah

According to the theory of Imam al Ghazali, maslahah is: "maintaining the objectives of the Shari'ah. Meanwhile, the objectives of shari'a include five main foundations, namely (Asiah, 2020):

1. Protecting religion (hifzh al diin);
2. Protect the soul (hifzh al nafs);
3. Protect the intellect (hifzh al aql);
4. Protecting human sustainability (hifzh al nasl); dan
5. Protect property (hifzh al mal). (Al-Ghazali, 1971)

The theory of maslahah-mursalah or the term mentioned above, was first introduced by Imam Malik (d. 97 H.), the founder of the Malik madhhab. However, after the third century of hijri there are no more jurists who attribute maslahah mursalah to Imam Malik (Hallag, 2000). So it is not an exaggeration if there is an opinion that the theory of maslahah-mursalah was invented and popularized by scholars of jurisprudence from the asy-Shafi'iyah circle, namely Imam al-Haramain al-Juwaini (d. 478 H.), the teacher of Imam al-Ghazali. According to several research results, the jurisprudence expert who discusses and studies the most maslahahmursalah is Imam al-Ghazali who is known as hujjatul Islam. (Suratmaputra, 2010).

Al-Gazali said that various types of benefits are seen in terms of justification and not by the evidence of sharia divided into 3 types, namely (Huzaifi, 2023):

1. The maslahat justified by the shari' can be used as an argument and the conclusion goes back to qiyas, which is to take the law from the soul/spirit of nas and ijma'. Example: punishing that every intoxicating drink and food is haram to be qiyas to khamar.
2. The benefits that are canceled by the shari'. Example: the opinion of some scholars to one of the kings when having marital relations during the day of Ramadan, it is permissible to fast for two consecutive months. When this opinion was refuted, why did he not order the king to free the slaves, even though he was rich, the scholar said, if the king I told him to free the slaves of the sahaya, it would be very easy for him, and he would lightly free the slaves to meet the needs of his orgasm. Therefore, the benefit is that he is obliged to fast for two months in a row, so that he is deterred. This is an opinion that is void and violates the law with benefits. Opening this door will change all the provisions of Islamic law and its texts due to changes in conditions and situations.
3. Maslahat that is not permissible and is not cancelled by shari'. (Al-Ghazali, 1971)

The three things mentioned above are used as the basis by Imam al-Ghazali in making operational limits for maslahah-mursalah to be accepted as a basis for the determination of Islamic law:

1. The mashlahah must be in line with the purpose of establishing Islamic law, namely maintaining religion, soul, intellect, property and heredity or honor.
2. The mashlahah must not contradict the Qur'an, the Sunnah and ijma'.
3. The mashlahah occupies the level of daruriyah (primary) or hajiyah (secondary) which is at the same level as daruriyah.
4. The mashlahah must be in the status of qat'i or zanny that is close to qat'i.
5. In certain cases, requirements are required, which must be qat'iyah, daruriyah, and kulliyah. (Mas'ud, 1977).

Based on the operational requirements made by Imam al-Ghazali above, it can be seen that Imam al-Ghazali does not view maslahah-mursalah as a stand-alone postulate, apart from the Qur'an, as-Sunnah and ijma'. Imam al-Ghazali views maslahah-mursalah only as a method

of *istinbath* (excavation/discovery) of law, not as a postulate or source of Islamic law (Haniatunnisa, 2021).

While the operational scope of *maslahah-mursalah* is not explicitly mentioned by Imam al-Ghazali, but based on the results of research conducted by Ahmad Munif Suratma Putra on the examples of *maslahah mursalah* cases presented by Imam al-Ghazali in his books (*al-Mankhul*, *Asas al-Qiyas*, *Shifa al-Galil*, *al-Mustafa*) it can be concluded that Imam al-Ghazali limits the operational scope of *maslahah-mursalah* to only in the field of *muamalah*. (Suratmaputra, 2010).

Illegal Oil Drilling in Empirical Studies

Illegal oil drilling in Indonesia has led to numerous incidents that have caused casualties and material losses, especially in the Sumatra region. Here are some of the standout cases:

1. Cases of Illegal Oil Drilling in North Sumatra (Casualties Due to Old Well Drilling). Illegal drilling activities in old wells in North Sumatra have resulted in the death toll of 28 people, including the Telaga Said area in Langkat Regency, Sei Lapan in Langkat Regency, and Sipinang in the area bordering Peurlak Aceh and Besitang, North Sumatra.
2. Cases of Illegal Oil Drilling in Other Provinces in Sumatra
South Sumatra
 - a. Musi Banyuasin Regency (Muba). Fire and Damage to Residents' Houses (2022): A pickup truck transporting crude oil overturned on Jalan Sekayu-Mangun Jaya, causing a massive fire that burned down four residents' houses. Although there were no casualties, material losses were estimated at billions of rupiah.
 - b. Explosion and Casualties (July 2024): An illegal oil well in the swamp area of Sungai Dawas Parung, Hamlet V, Srigunung Village, Sungai Lilin District, exploded and claimed lives.
 - c. Incident Series (2024): Throughout 2024, there were 16 incidents related to illegal oil wells in Muba, including explosions and fires that caused fatalities and material losses.

Illegal oil drilling activities not only cause casualties and material losses, but also cause significant environmental damage. Soil and water pollution due to crude oil leaks threatens the ecosystem and the health of the surrounding community. In addition, the country suffered economic losses due to the loss of revenue from the uncontrolled energy sector.

To address this problem, the government and related agencies have made various efforts, including law enforcement against illegal drillers, closing illegal wells, and educating the public about the dangers and negative impacts of these activities. However, challenges still remain, especially in terms of monitoring and empowering the community so that they do not get involved in illegal activities. By understanding these cases, it is hoped that preventive and countermeasures can be more effective in overcoming the problem of illegal oil drilling in Indonesia.

Analysis of Illegal Oil Drilling in the Perspective of Imam Ghazali's Mashlahah

Illegal oil drilling is a phenomenon that is rampant in various petroleum-producing areas. These activities are carried out without official permits and often ignore safety standards and environmental impacts. From the perspective of Islamic law, every economic activity must pay attention to the principle of *mashlahah*, which is to safeguard the public interest and avoid damage. In this context, Imam Al-Ghazali's thoughts on *mashlahah* become relevant in analyzing the practice of illegal oil drilling and its impact on society and the environment.

Imam Al-Ghazali defines *mashlahah* as everything that brings benefits to individuals and society and prevents them from harm. This concept includes the protection of five main aspects of human life (*al-daruriyyat al-khamsah*), namely:

1. Religion (*al-din*): Maintaining the integrity of Islamic teachings and obedience to the law.
2. Soul (*al-nafs*): Guarantees the safety and well-being of humans.

3. Reason (al-aql): Encourages healthy and innovative thinking.
4. Descendants (al-nasl): Protecting the sustainability of future generations.
5. Wealth (al-mal): Managing economic resources in a fair and sustainable manner. (Hidayatullah, 2018)

Mashlahah in Islam is classified into three levels:

1. Mashlahah Daruriyyah (Primary): Basic needs that must be met for survival, such as safety and economic justice.
2. Mashlahah Hajiyyah (Secondary): Needs that make human life easier, such as fair business regulations.
3. Mashlahah Tahsiniyyah (Tertiary): Additional values that improve the quality of life, such as ethics in trade (Huzaifi, 2023).

Not only that, in terms of analysis, illegal oil drilling can have an impact on the following:

1. Impact on Religion (al-din)

Illegal oil drilling often involves actions that are contrary to Islamic principles, such as theft of resources, bribery, and violations of state laws. In Islam, obedience to legitimate rules is part of mashlahah because it creates social order.

2. Impact on the Soul (al-nafs)

Illegal drilling practices are often carried out without adequate safety standards, leading to the risk of work accidents, fires, and environmental pollution. This is contrary to the principle of mashlahah which emphasizes the protection of human life.

3. Impact on the Reason (al-aql)

This illegal activity also hinders innovation in the energy industry due to the lack of research and application of more environmentally friendly technologies. This is contrary to mashlahah which encourages the use of science for the common good.

4. Impact on Offspring (al-nasb)

Environmental damage from illegal drilling has a long-term impact on future generations. Soil and water pollution can disrupt the balance of ecosystems and public health, which is contrary to the principle of hereditary protection in mashlahah.

5. Impact on Assets (al-mal)

Illegal oil drilling causes economic losses to the country and society because revenues from the energy sector are not properly managed. In addition, oil resources that are exploited unsustainably will be depleted faster, harming the economy in the long run.

Based on the above analysis, illegal oil drilling causes more harm than good. In the perspective of Imam Al-Ghazali's mashlahah, this activity is contrary to the principle of protecting religion, soul, intellect, descendants, and property. Therefore, this practice must be prevented and alternative solutions that are more equitable and sustainable must be sought. These solutions can be in the form of natural resource management in accordance with Islamic economic principles, stricter law enforcement, and public education about the importance of responsible resource exploitation. By understanding the concept of mashlahah in depth, it is hoped that the policies taken in the energy sector can be more in line with Islamic values and provide benefits for the entire community.

CONCLUSION

Based on the analysis conducted in this study, illegal oil drilling in Indonesia causes more harm (mafsadah) than benefits (mashlahah). In the perspective of Imam Al-Ghazali's mashlahah theory, this activity is contrary to the principle of protection for the five main aspects of life (al-daruriyyat al-khamsah), namely religion (al-din), soul (al-nafs), intellect (al-aql), heredity (al-nasl), and property (al-mal). Illegal oil drilling not only violates state laws, but also poses a high risk to life safety, causes environmental pollution that has a long-term impact, and results in economic losses for society and the country. From the point of view of mashlahah, the economic activities that are allowed in Islam are those that bring great benefits

to society and prevent damage. However, in the case of illegal oil drilling, the risks and negative impacts far outweigh the benefits. Therefore, this practice must be stopped through stricter law enforcement, education to the public about its adverse impacts, and the provision of economic alternatives that are more sustainable and in accordance with the principles of justice in Islam. Thus, natural resource management must be carried out responsibly in order to provide benefits for all parties without causing environmental and social damage.

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