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MENU

[➔ HOME](#)[➔ EDITORIAL BOARD](#)[➔ ISSUES](#)[➔ SUBMISSIONS AND
AUTHOR GUIDELINES](#)[➔ PUBLICATION ETHICS](#)[➔ INDEX](#)[➔ CONTACT US](#)

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• Menu

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• Menu

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- [INDEX \(https://www.ijbel.com/index/\)](https://www.ijbel.com/index/)
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VOL 13 (August 2017) ISSUE 4 – LAW

International Journal of Business, Economics and Law, Vol. 13, Issue 4

(August 2017)

TABLE OF CONTENTS – LAW PAPERS

No.	Authors	Title	Page
1	Henny Saida Flora	LEGAL PROTECTION ON VICTIM OF MEDICAL MALPRACTICE (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-3.pdf)	1-8
2	Laelatul Fitri, Devi Rosalia, Wahyu Mutia Artati	EFFECTIVITY OF IMPLEMENTSTION ON LEASING AGREEMENT OF FLATS (STUDY CASE OF SEMARANG CITY INDONESIA) (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-8.pdf)	9-14
3	A. Joko Purwoko	THE SIGNIFICANCE OF LEGAL REASONING IN CONSUMER DISPUTE SETTLEMENT THROUGH THE CONSUMER DISPUTE SETTLEMENT AGENCY (BPSK) IN INDONESIA (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-10.pdf)	15-21
4	Baidhowi	THE DILEMMA OF LEGAL PROTECTION FOR CHILDREN AND WOMEN IN POLIGAMIC CASE (STUDY OF RELIGIOUS COURT DECISIONS) (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-43.pdf)	22-29
5	Elly Kristiani Purwendah	NEGOTIATION AS AN OPTION OF DISPUTE RESOLUTION IN OIL POLLUTION BY TANKER IN INDOONESIAN LEGAL SYSTEM (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-50.pdf)	30-33
6	Irma Febriyanti	THE CASE OF THE 1974 UNESCO RECOMMENDATION AND MINORITIES' RIGHTS TO EDUCATION FOR EQUAL CITIZENSHIP RIGHTS (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-75.pdf)	34-42
7	Hartana	A GROUP COMPANY RESTRICTION ON EXPANSION REGULATION IN MINING SECTOR IN INDONESIA (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-85.pdf)	43-54
8	Saru Arifin	A ROADMAP OF THE DEVELOPMENT OF INDOONESIAN LAW IN THE MIDST OF GLOBALIZATION (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-89.pdf)	55-59
9	Gunawan Widjaja	THE APPLICATION AND IMPLEMENTATION OF "MOU" IN INDOONESIAN BUSINESS PRACTICES (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-94.pdf)	60-64
11	Ade Agustina, Setiono, Hartiwiningsih	STRENGTHENING THE LEGAL PROTECTION FOR CHILDREN IN CONFLICT WITH THE LAW IN THE JUVENILE CRIMINAL JUSTICE SYSTEM THROUGH RESTORATIVE JUSTICE APPROACH (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-218.pdf)	74-81
13	Sarjiyati, Adi Sulistiyono, I Gusti Ayu Ketut Rachmi Handayani, Isharyanto	LOCAL AUTONOMY MODEL IN REALIZING THE PEOPLE'S WELFARE IN INDONESIA (https://www.ijbel.com/wp-content/uploads/2018/03/LAW-340.pdf)	92-99
14	Ade Arif Firmansyah; Yos Johan Utama; HS. Tisnanta	THE COMPOSITION OF LAND SAVING MODEL REGULATION: EFFORTS TO REDUCE CONFLICT IN LAND ACQUISITION FOR PUBLIC INTERESTS (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-233.pdf)	100-106
15	Nur Said	WOMAN SUPPORTING ETHICS IN INDONESIA (The Ethical Analysis of Islamic Sufism of Queen Kalinyamat in Java, Indonesia) (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-102.pdf)	107-112

No.	Authors	Title	Page
16	Monica Puspa Dewi, FX. Adji Samekto SH, MHum, Yusriyadi SH, MS	TESTING THE IMPLEMENTATION OF CORPORATE RESPONSIBILITY IN REALIZING SOCIAL JUSTICE (A Case Study in Central Java, Indonesia) (https://www.ijbel.com/wp-content/uploads/2017/09/LAW-11.pdf)	113-118
17	Vivi Ariyanti	THE VICTIMS OF DRUGS ABUSE AND THEIR LEGAL STATUS IN THE INDONESIAN NARCOTICS LAW (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-66.pdf)	119-123
18	Rodiyah	PHILOSOPHY OF PROGRESSIVE LAW ON ESTABLISHMENT OF LAWS AND REGULATIONS IN THE CONTEXT OF SUBSTANTIVE JUSTICE: AN INDONESIAN EXPERIENCE (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-14.pdf)	124-129
19	Detji Kory Elianor Rooseveld Nuban; Hartiwiningsih; Mohammad Jamin	THE LEGAL ASPECTS OF BOTI'S TRIBE: "WHEN THE NATIONAL LAW IS NOT REQUIRED" (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-250.pdf)	130-137
22	Nikmah Rosidah; I Gusti Ayu Ketut Rachmi Handayani; Hartiwiningsih	THE JUDGE'S JUDICIAL INDEPENDENCE IN MAKING LEGAL DECISION IN THE COURT (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-239.pdf)	151-158
23	Inche D.P.Sayuna, Adi Sulistiyono, Mohammad Yamin, I Gusti Ayu Ketut Rachmi Handayani	THE REINFORCEMENT OF AFFIRMATIVE ACTION LEGAL POLITICS TO IMPROVE THE REPRESENTATIVENESS OF WOMEN IN INDONESIAN LEGISLATIVES (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-240.pdf)	159-170
24	Suratno; Gunarto; AkhmadKhisni	IDEAL FOSTERINGCONSTRUCTION FOR PRISONER IN DETENTION CENTER BASED ON JUSTICE VALUE (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-260.pdf)	171-179
26	Anis Mashdurohatur; Setyawati	IDEAL CONSTRUCTION OF LEGAL PROTECTION ON BATIK BASED ON PANCASILA JUSTICE VALUES (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-262.pdf)	189-198
27	Achmad Arifulloh; Teguh Prasetyo; Sri Endah Wahyuningsih	THE FACTORS AFFECTING RECIDIVIST CHILDREN AGAINST THE CHILDREN'S DEVELOPMENT OF THE PENITENTIARY SYSTEM (https://www.ijbel.com/wp-content/uploads/2017/10/LAW-264.pdf)	199-205
28	Budi Prasetyo	LEGAL EFFECT OF DIVORCE ON THE POSITION AND RIGHTS OF THE CHILD IN INDONESIA (https://www.ijbel.com/wp-content/uploads/2017/11/LAW-253.pdf)	206-209
29	Sigit Sapto Nugroho; Absori; Harun; Rahmanta Setiahad	RECONSTRUCTION LAW RESOURCE MANAGEMENT COMMUNITY-BASED FOREST TOWARDS PROSPERITY OF THE PEOPLE IN JAVA - INDONESIA (https://www.ijbel.com/wp-content/uploads/2017/11/LAW-259.pdf)	210-216
30	Rudepel Petrus Leo, Hartiwiningsih, Mohammad Jamin	IDEAL POLICY MODEL FOR MINIMIZING THE PRACTICE OF NONLEGITIMATED DISCRESSION AND MALADMINISTRATION IN THE CRIMINAL LAW ENFORCEMENT BY POLICE IN THE PROVINCE OF EAST NUSA TENGGARA, INDONESIA (https://www.ijbel.com/wp-content/uploads/2017/11/LAW-251.pdf)	217-220
31	Said Gunawan, Anis Mashdurohatur, Teguh Prasetyo, I Gusti Ayu Ketut Rachmi Handayani	DEVELOPMENT CONCEPT OF NON-ALUTSISTA ABUSE BY INDONESIAN NATIONAL ARMY (https://www.ijbel.com/wp-content/uploads/2018/03/LAW-261.1.pdf)	221-229
32	Nur'aini; Rr. Widyorini Indriasti Wardani	JURIDICAL ANALYSIS OF THE EXPUSION OF COST OF ACQUIRING THE RIGHT TO LAND AND BUILDING (BPHTB) FOR TRANSFER OF RIGHTS TO LAND AND BUILDING TO TAXPAYERS IN SEMARANG CITY (https://www.ijbel.com/wp-content/uploads/2021/02/IJBEL13_413-1.pdf)	230-238

Search 

• Total Visitors

TESTING THE IMPLEMENTATION OF CORPORATE RESPONSIBILITY IN REALIZING SOCIAL JUSTICE (A Case Study in Central Java, Indonesia)

Monica Puspa Dewi,
FX. Adji Samekto SH, MHum,
Yusriyadi SH, MS

ABSTRACT

Some provisions on CSR have been set forth normatively in several laws, such as: article 74 of the Law of Limited Liability Company No. 40 of 2007, article 15 of the Investment Law No. 25 of 2007, article 3 of the Government Regulation No. 47 of 2012 on the Social and Environmental Responsibility of Limited Liability Company, and the Regional Regulation of East Java No. 4 of 2011 and the Draft of the Central Java Regulation. Partially, people can actually understand the philosophy of the mining industry, which is to optimize the profits for the industry to survive. However, the dynamics of society and changes in the political order also changed the way of view. People want transparency in the management of natural resources and economic activities. Politically the demands of society is very reasonable, because the natural resources owned by the Indonesian nation is only enjoyed by a small or a certain group, while most people live in poverty. This fact is supported by the results of research Carolyn Marr which expressed in paradox language that is rich Indonesia and Indonesia also poor (Indonesia of fabulously rich and Indonesia is desperately poor). From the results of the research that the authors get dii Central Java there is no regulation that regulates the good and specific about the cooperation among stakeholders in the provision and management of CSR, especially on communities directly affected by oil and gas company activity in the area of Central Java.

Problems:

How to build the CSR Policy that provides people welfare in realizing social justice?

The basic character of CSR voluntary and philanthropy. When it is made positive through law, the natures of voluntary and philanthropy will be shifted into forcing obligation and have the implication on misuses. Many CSRs were merely conducted for the sake of companies. The approach method used was Socio Legal that makes the concept of law as norms and behavior. The paradigm applied was the Constructivism of Guba and Lincoln, and the justice theory used was the justice theory of Notonagoro based on PANCASILA.

Keywords: CSR, Justice, Social Justice.

INTRODUCTION

CSR is an important element in the framework of sustainability that includes economic, social, and cultural aspects. CSR is an important concept in managing the cost and profitability of business activities with stakeholders both internally and externally, which is not limited to the concept of donor grants, but is a right and obligation shared by stakeholders. The presence of CSR is to maintain the balance of each interest through the compensation provided. Implementation of CSR so far in Central Java is more voluntary and philanthropy so that the scope of CSR programs is relatively limited and ineffective, even CSR programs are implemented as an effort to improve corporate image in the eyes of the community. While the Concept of CSR rolled out as a stimulus with the ultimate goal of the creation of economic independence of Indonesian society.

The regulation related to corporate social responsibility can be found in the Enactment Number 25 Year 2007 regarding Capital Investment Article 1 stated "Investor is a form of investment activity, either by domestic investor or foreign investor to do business in the territory of the Republic of Indonesia" and in Article V (b) of Limited Liability Companies Number 40 Year 2007 Article 74 on Social and Environmental Responsibility is stated "(1) The Personnel conducting its business activities In the field and / or related to natural resources shall be obliged to carry out the Social and Environmental Responsibility. (2) Social and Environmental Responsibility as referred to in paragraph (1) shall be the obligation of the company to be budgeted and calculated as the cost of the Company whose implementation is carried out with due attention to the properness and reasonableness. (3) A company that does not perform its obligations as referred to in paragraph (1) shall be liable to sanctions in accordance with the provisions of laws and regulations. (4) Further provisions on Social and Environmental Responsibility shall be governed by a Government Regulation. Government Regulation No. 47/2012 on Social and Environmental Responsibility of Limited Liability Company as the implementing regulation of the provisions of Article 74 paragraph (4) of Law Number 40 Year 2007 regarding Limited Liability Company, Article 2 stated "Every company as a legal subject has social responsibility and (1) the social and environmental responsibilities referred to in Article 2 shall be the obligation of the company carrying on its business activities in the field of and / or related to natural resources under the law. (2) The obligations as referred to in paragraph (1) shall be declared "Social and Environmental Responsibility shall be executed by the Board of Directors based on the Company's Annual Work Plan after obtaining approval from the Board of Commissioners or the General Meeting of Shareholders in accordance with the Budget Basis of the Company, unless it is stipulated by the other regulations." Paragraph (2) stated "The Annual Work Plan of the Company as referred to in paragraph (1) shall contain the activity plan and budget

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IDEAL POLICY MODEL FOR MINIMIZING THE PRACTICE OF NONLEGITIMATED DISCRETION AND MALADMINISTRATION IN THE CRIMINAL LAW ENFORCEMENT BY POLICE IN THE PROVINCE OF EAST NUSA TENGGARA, INDONESIA

Rudepel Petrus Leo,

Hartiwiningsih,
Mohammad Jamin

ABSTRACT

The legal principle of Equality Before the Law has not been properly implemented in governance, especially law enforcement in Indonesia. There are still many discretionary practices of non-legitimization and maladministration (irregularities and violations) by police officers in performing their duties. The problem of this research is: What is the ideal policy model that can overcome or minimize discretionary practices of nonlegitimization and maladministration? Primary data was obtained by interviewing 20 research subjects in East Nusa Tenggara Regional Police Region. The results of this study are as follows. The ideal policy model that can minimize the discretionary practice of non-legitimization and maladministration is: First, revitalize (increase) the supervision of police discretion by: (1) Preventive efforts ie independent variables are reduced through the policy of the Chief of Police of the Republic of Indonesia. (2) Curative efforts of unprofessional police officers are strictly reprimanded as therapeutic and given the opportunity to continue their professional education. Secondly, the repressive effort of revitalizing oversight by the National Police Commission, or other institutions, by giving authority to impose firm punishment so as to frighten or discourage discretionary actors from non-legitimization and maladministration. Third, the revitalization of the application of punishment expressly by the police officers so as to cause the fear or deterrent effect of discriminator of non-legitimization and maladministration. Fourth, the establishment of the Regional Police Commission in all provinces so that the service is easily accessible to the public. Fifth, involving the Regional Police Commission, mass media and social organization to supervise when indicated discretionary practice of non-legitimization and maladministration so as to force the police to carry out investigations and investigations in accordance with applicable law.

Keywords: Equality before the law, public trust, nonlegitimated discretion, maladministration.

A. Introduction

Law enforcement in reality in Indonesia, until now still found discrimination in Settlement of legal cases (Sochmawardiah, 2013: 1). Discrimination is one form of discretion. Eryln Indarti divides two kinds of discretion: legitimate and nonlegitimate discretion. Unauthorized discretion is a discretion that is not permitted or prohibited by law (Indarti, 2000). Furthermore, according to Soenaryati Hartono, maladministration is an unnatural behavior (including postponement of service delivery), disrespectful and indifferent to the problems that befall a person caused by abuse of power, including the arbitrary use of power or the power used for non-Fair, unfair, intimidating or discriminatory, and inappropriate, based wholly or partly on the provisions of law or facts unreasonable, or based on unreasonable, unjust, oppressive and discriminatory measures (Soenaryati Hartono, 2003: 6). Some examples of police maladministration are (1) counterfeiting and conspiracy, (2) handling of disputes or not handling, (3) abuse of authority or exaggeration, (4) clearly taking sides, (5) receiving rewards (money, gifts, KKN), (6) embezzlement of evidence or control without rights (National Ombudsman Commission cited Philipus M. Hadjon and Tatiek Sri Djatmiati, 2004). Discrimination as a form of non-legitimacy and maladministration discrimination is sensitive in Indonesia, and has the potential to cause conflicts and mass riots such as the SARA riots of May 1998, cases in Sambas, West Kalimantan in 1998-1999, as well as cases in Sampit, Central Kalimantan in 2001, and in other areas.

Many cases of serious criminal offenses (such as murder, severe maltreatment, robbery) taking place in East Nusa Tenggara are very slowly handled. Example: a sadistic murder case in Kefamenanu, North Timor Tengah Regency, on June 6, 2008, with victim Paulus Usnaat (40s). The murder became very interesting because the crime scene was in the detention room of the Nunpene Sector Police, where it should provide protection and security for a detainee. In addition, the mastermind of the suspect/ perpetrator is a public figure, namely a member of the Regional House of Representatives of the District of North Central Timor. This case belongs to premeditated murder threatened with death penalty, or life imprisonment or temporary imprisonment of at least 20 years (Article 340 of the Criminal Code), and involves some or many parties (Articles 55 and 56 of the Criminal Code). The settlement was 'drowned' for 7 years, and it was only completed until five replacements of the East Nusa Tenggara Regional Police Chief had occurred. In fact, the correction of the investigation report has been back and forth 20 times from the police-prosecutors. The case was only resolved and proceeded to the district court in June 2015, when Brigjen.Pol. Drs. Endang Sunjaya, S.H., M.H. Became the Chief of East Nusa Tenggara (Timor Express Newspaper, June 23, 2015). The practice of non-legitimated discretion and maladministration by police officers is contrary to the principle of non-discrimination, equality before the law, equality under justice, whereas Article 27 of the 1945 Constitution asserts that all persons are equal before the law and government.

The discretion of non-legitimization and maladministration or variation of treatment by police officers is suspected to have a

5. Involve the Regional Police Commission, Mass Media and Social Organization in Supervision

When there is an indication of discretionary practices of nonlegitimacy and maladministration by police officers in the settlement of criminal cases, immediately report and involve: (1) the Regional Police Commission, (2) the mass media and (3) the social organization in the supervision. These three elements are reliably effective in guarding or supervising the stages of handling criminal cases by police officers, which is evident in many cases. The involvement of these three elements caused police officers, unwillingly, to carry out investigations to investigations in accordance with applicable criminal procedural law.

Many experiences indicate that criminal cases indicated discretionary discrimination and maladministration by police officers, when they involve mass media or social organizations, will immediately stop the practice of non-legitimization discretion and maladministration. The settlement of cases, from investigation to judge's verdict, will immediately proceed according to applicable criminal procedure law. "Inappropriateness" handling is immediately "right." When the mass media or social organization begins to monitor and monitor the criminal process of handling criminal cases, the police do not dare to discourage nonlegitimacy and maladministration of these criminal cases.

A description of the criminal law enforcement process that minimizes discretionary discrimination practices and maladministration by the police apparatus is visualized in Figure 1.

E. Conclusion

The ideal policy model as an effort to overcome or minimize the discretionary practice of nonlegitimacy and maladministration by police officers is: The ideal policy model that can minimize discretionary discrimination and maladministration practices are: *First*, revitalize police surveillance by: (1) Preventive measures is the independent variables are reduced through the policy of the Chief of Police of the Republic of Indonesia. (2) Curative efforts of unprofessional police officers are strictly reprimanded as therapeutic and given the opportunity to continue their professional education. *Secondly*, the repressive effort of revitalizing oversight by the National Police Commission, or other institutions, by giving authority to impose firm punishment so as to frighten or discourage discretionary actors from non-legitimization and maladministration. *Third*, the revitalization of the application of punishment expressly by the police officers so as to cause the fear or deterrent effect of discriminator of non-legitimization and maladministration. *Fourth*, the establishment of the Regional Police Commission in all provinces so that the service is easily accessible to the public. *Fifth*, involving the Regional Police Commission, mass media and social organization to supervise when indicated discretionary practice of non-legitimization and maladministration so as to force the police to carry out investigations and investigations in accordance with applicable law.

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