

LEGAL MODEL OF ERADICATING ILLEGAL CIGARETTES AS A MEANS OF INCREASING STATE REVENUE

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Abstract

This study examines the legal framework and enforcement efforts to combat the circulation of illegal cigarettes in Indonesia, with a focus on the “Gempur Rokok Ilegal” program implemented by the Directorate General of Customs and Excise (DGCE) in the jurisdiction of KPPBC TMP B Surakarta. Using a doctrinal legal research method with statute and conceptual approaches, the research analyzes preventive and repressive enforcement measures against violations in tobacco excise. Findings show that despite extensive campaigns and enforcement, the distribution of illegal cigarettes remains high, influenced by economic incentives, weak deterrence, and geographic proximity to major tobacco-producing regions. The study concludes that optimal law enforcement requires more intensive surveillance, stronger community involvement, and stricter penalties to deter offenders, thereby safeguarding state revenue from tobacco excise.

Keywords: *cigarette excise; enforcement; illegal cigarettes; law; tobacco control.*

INTRODUCTION

Cigarette excise revenue is one of the largest contributors to state revenue. Based on a report by the Audit Board (BPK), state revenue from tobacco excise (CHT) in 2023 reached IDR 210.29 trillion. The figure decreased by IDR 8.33 trillion or shrank by 3.81% compared to 2022. The government targets state revenue from tobacco excise (CHT) or cigarette excise worth IDR 230.4 trillion in the 2024 State Budget, as stated in Presidential Regulation (Perpres) No. 76/2023 concerning Details of the State Revenue and Expenditure Budget (APBN) for the 2024 Fiscal Year. The cigarette excise target in 2024 is down from the initial target of the 2023 State Budget which is worth IDR 232.58 trillion or lower IDR 2, 18 trillion. This is done because the performance of cigarette excise revenue continues to decline. One of the reasons is that there is a tendency for cigarette connoisseurs to switch to consuming plain cigarettes / excise-free cigarettes and cigarettes with fake excise tapes. This results in a decrease in state revenue from cigarette excise, and it can be said that the state is disadvantaged, because of the loss of revenue from cigarette excise that should have entered the state treasury.(Gunawan, 2021)

The circulation of plain cigarettes / excise-free cigarettes and cigarettes with fake excise tapes or so-called illegal cigarettes is still rampant.(van Walbeek, 2014) At the end of last year, on September 3, 2023, officers of the Regional Office of the Directorate General of Customs (DJBC) of the Riau Islands succeeded in thwarting the smuggling of illegal cigarettes worth more than Rp 66 billion. The illegal cigarettes came from Thailand and were to be sent to the Kampar River, Riau. In an effort to eradicate illegal cigarettes, the Directorate General of Customs and Excise (DJBC) in collaboration with local governments throughout Indonesia has carried out two types of approaches, namely cracking down on illegal cigarettes and educating the public through the Illegal Cigarette Strike (GRI) program. The Illegal Cigarette Strike (GRI) program is a form of regulation for distribution activities and law enforcement efforts whose goal is to eradicate the circulation of illegal cigarettes in Indonesia. The Illegal Cigarette Strike Program (GRI) is a comprehensive and systematic initiative implemented by the Directorate General of Customs throughout Indonesia that aims to eliminate the production and distribution of illegal cigarettes. The Illegal Cigarette Strike Program (GRI) is an organized, coordinated, simultaneous, and massive operation or strategy from upstream to downstream to eradicate the circulation of illegal cigarettes. The GRI program uses a repressive and preventive action approach. Repressive actions by conducting simultaneous

and massive supervision and enforcement at all Customs offices in Indonesia against the circulation of illegal cigarettes. Preventive measures by carrying out various socialization activities and also education to the public about illegal cigarettes. (Kusumastuti & Musa, 2023) The Directorate General of Customs and Excise in the implementation of the Illegal Cigarette Strike (GRI) program as a structured and massive effort throughout Indonesia to eradicate illegal cigarettes, including in the area of the Customs and Excise Supervision and Service Office of Intermediate Type B (KPPBC TMP B) Surakarta. Socialization activities in the field of excise known as the GRI campaign. During 2022, Customs has carried out 21,182 actions against illegal cigarettes with an estimated value of goods resulting from the crackdown reaching Rp.612 billion. The number of actions and the value of the goods resulting from the action have always increased from the previous year. Efforts to eradicate illegal cigarettes are also carried out through the GRI campaign program. This socialization program has been intensively implemented by every local government in districts/cities throughout the territory of the Republic of Indonesia every year. The socialization aims to increase public awareness and compliance with excise regulations, because with a good understanding, it is hoped that the community can play an important role in efforts to eradicate illegal cigarettes. (Vellios et al., 2020) However, even though GRI enforcement efforts and campaigns have been massively implemented, the results of an Indodata study (2021) show that the consumption of illegal cigarettes in the community is still quite high, reaching 7,701 cigarettes per day, causing state losses from potential lost excise revenue of Rp.53.18 trillion per year. (Suwadi & Saputra, 2025) This is what makes researchers feel the need to evaluate the GRI campaign message to gather information that can be input for future campaign program improvements.

In the work area of the Customs and Excise Supervision and Service Office of Intermediate Type B (KPPBC TMP B) Surakarta there are seventeen HT factories in this case can be a potential source of illegal cigarette production. This is also supported by the geographical location of the KPPBC TMP B Surakarta work area which is close to the largest cigarette producing areas in Indonesia such as Kediri and Kudus. This makes the work area of KPPBC TMP B Surakarta a potential hoarding area or transit of illegal cigarettes. Then look at the pattern of the distribution of illegal cigarettes which will only move if there is an increase in supervision in an area (Balloon Effect). (Saenz de Miera Juarez et al., 2021) There is a potential for the transfer of illegal cigarettes from Kediri and Kudus to the work area of KPPBC TMP B Surakarta. The author wants to analyze the influence of the "Illegal Cigarette Strike" program on the circulation of illegal cigarettes in the work area of KPPBC TMP B Surakarta by knowing and understanding the various activities in the framework of the "Illegal Cigarette Strike" program carried out in the field so that an understanding of the success factors of the program in reducing the level of illegal cigarette circulation can be obtained.

LITERATURE REVIEW

Examining from the literature of scientific writings, be it in the form of journals, theses, theses, dissertations, or other written works, there have been many writings that study illegal cigarettes. From some of these writings, the author found that there are several papers that are considered to have relevance to the ideas, ideas, and themes that the author raises. The following are several similar papers, including those written by Dede Ilham with the title Law Enforcement Against the Crime of Cigarette Circulation Without Excise Tape in Pekanbaru City with the results of research. The circulation of cigarettes without excise tape in Pekanbaru City is rampant due to weak supervision and enforcement by law enforcement officials. It is necessary to strengthen supervision and enforcement, and it is necessary to simplify the structure of cigarette excise tariffs. A similar research was also written by Arina Novitasari with the title Optimization of the Excise Law on the Compliance of Cigarette Factory Entrepreneurs in Paying Excise (Study at the Kudus Excise Intermediate Type Customs and Excise Supervision and Service Office), with the results of research on Law Number 39 of 2007 concerning Excise has not been effective in increasing the compliance of cigarette entrepreneurs in paying excise, because it only prioritizes administrative sanctions, and the weak supervision and enforcement by law enforcement officials. With the display of the paper, it is hoped that it can be an additional material for input, reference and comparison material to find the differences between the existing research and the study material in this study. The comparison with the relevant studies mentioned above with this study is:

1. The policy object used in the research conducted in 2018 and 2021 focuses on monitoring and law enforcement efforts against the crime of illegal cigarette trafficking. Meanwhile, the author will examine what factors hinder the Directorate General of Customs and Excise's Illegal Cigarette Strike Program effective in suppressing the circulation of illegal cigarettes.

2. The research, which was conducted in 2018 and 2021, focused on the consequences of the circulation of illegal cigarettes. Meanwhile, in this study, the author will examine how to find alternative efforts that can be made by the Government to suppress the circulation of illegal cigarettes.

In this study, several theories are used, namely Pragmatic Legal Theory which is an approach to legal philosophy that departs from the classical school of pragmatism, developed by Charles Sanders Peirce, William James, and John Dewey in the late 19th century in the United States.(Gunawan & Fathoni, 2023) In this approach, law is not understood as an absolute or dogmatic system of norms, but rather as a functional tool that is judged on the basis of its real consequences and usefulness in social life. According to Charles Sanders Peirce, an idea has meaning only if it can be attributed to practical consequences in human experience.(Wijaya & Gunawan, 2025) Peirce states that the meaning of a legal concept can only be understood through its direct impact and empirical consequences in action. Therefore, the value of a law does not lie in its mere moral abstraction, but in its effectiveness in solving real problems and achieving social goals.(van der Zee et al., 2020) William James expands on this view by emphasizing that a good law is a law that "works" for humans, that provides concrete solutions to life's problems, not just normative ideals.(Paraje, 2019) Meanwhile, John Dewey considered law as a tool for social engineering, not as a rigid closed system. Laws must be tested through social experimentation and must always be open to renewal when they are no longer effective in the context of a changing society.(Rachmawaty et al., 2024)

The second theory is the theory of legal rationality, which is one of the important theories in the study of law that views law as a product of rational thinking that is created to achieve certain goals logically and structurally.(Gunawan et al., 2024) This theory was first introduced by Max Weber, a prominent German sociologist, who divided law into several types based on its level of rationality. According to Weber, there are two main forms of legal rationality, namely formal rationality and material rationality.(Gunawan et al., 2023) Formal rationality refers to the application of law based on systematic and logical written norms, while material rationality is related to the substance of law that is directed at the achievement of certain values such as justice, utility, and social welfare.(Zaid et al., 2025) In the context of modern law, the theory of legal rationality emphasizes the importance of drafting regulations and legal policies that are able to respond to the needs of society in a concrete and efficient manner.(Saputra et al., 2024) The law should not be seen as something rigid and regardless of the social context, but should function as a rational instrument to regulate people's lives and solve various public problems, including in this case economic crimes such as the circulation of illegal cigarettes.(Nurchahyo et al., 2024) Thus, the law must be dynamic, accommodating to social changes, and able to support the achievement of state goals, one of which is the optimization of state revenue from the excise sector.(Tarigan et al., 2025) Legal rationality becomes very relevant when discussing government policies in tackling the crime of illegal cigarette trafficking.(Mantri et al., 2025) The Illegal Cigarette Strike Program initiated by the Directorate General of Customs and Excise (DJBC) is a concrete form of the state's efforts to eradicate the circulation of illegal cigarettes that harm the country financially while violating applicable legal provisions.(Khoiruddin & Nurviani, 2025) In the theory of legal rationality, a policy is considered rational if it is designed based on empirical considerations, considers costs and benefits, and has a clear evaluation and supervision mechanism. The policy must also be able to reach the root of the problem and not just be a reactive response to legal symptoms.(Andriyani et al., 2024)

METHOD

The type of research in this study uses doctrinal law research which is commonly referred to as normative law research.(Saputra et al., 2025) Normative legal research is the research that systematically generates rules that govern a particular category of law, analyzes the relationships between certain rules, explains difficult areas, and possibly predicts future developments. The approach methods that will be used in this study are the statute approach, the conceptual approach. The data source used in this study is secondary data consisting of Primary Legal Materials, Secondary Legal Materials. The technique of collecting legal materials that will be used in this study is legal research, which means collecting the entire legal material in accordance with the approach in legal research.(Veronika & Asmarasari, 2025)

RESULTS AND DISCUSSION

The circulation of illegal cigarettes is an act that is detrimental to the State in the field of Customs and Excise, many illegal goods including illegal cigarettes are found in the Tembilahan customs and excise supervision area, therefore there is a need for supervision by the Tembilahan Customs and Excise Regional Office to supervise directly or indirectly which is preventive or action against the circulation of illegal cigarettes that do not meet the standards that cigarettes in general should be.(Schwartz & Zhang, 2016) As one of the largest state revenues, Excise has an

important role in the state budget. One type of excise is Excise on tobacco products (Cigarettes). The high level of cigarette consumption in the community has also increased the level of cigarette production in the country. However, the increase in cigarette production was not followed by a comparable rate of excise increase.

Now illegal cigarettes are increasingly circulating in the community, the cheaper price is certainly a driving factor for the increasingly active smuggling of illegal cigarettes.(Stehr, 2005) Illegal cigarettes can be recognized with the naked eye because they have fundamental differences with legal cigarettes. Legal cigarettes have an excise tape attached to the packaging while illegal cigarettes are plain cigarettes that are not attached to the excise tape on the packaging.(Nguyen & Nguyen, 2020) Legal cigarettes have an excise tape attached to the packaging, while illegal cigarettes are plain cigarettes that are not attached to the excise tape on the packaging. Legal cigarettes have an original excise tape is an excise tape that is in accordance with the 2020 Excise Tape Design (specially made with certain characteristics), one of its characteristics is that it has a hologram and the print is clear and sharp, while illegal cigarettes are cigarettes whose excise tape is difficult to recognize. Usually the design and color will fade or look unclear, looking like regular print paper. Legal cigarettes have an excise tape that is still in good condition while Illegal Cigarettes are cigarettes that are attached to an excise tape that has been used before. It will usually look torn, wrinkled and untidy. Legal cigarettes are also attached by an excise tape that is in accordance with their designation, while illegal cigarettes are cigarettes with an excise tape that is wrongly designated, attached with an excise tape that does not match the name of the company, the number of sticks or the type of product.(Gallagher et al., 2019)

By knowing these characteristics, the community is expected to be able to participate in the "Illegal Cigarette Strike" activity and slowly want to reduce or not consume illegal cigarettes and also be aware of the state losses caused by the rampant circulation of illegal cigarettes.(Rowell et al., 2014) Illegal cigarettes are defined as cigarettes that are distributed in the community but are considered to have no sign of excisable goods, because the circulation of cigarettes in Indonesia is controlled using excise tape. This excise tape is considered a form of state control and supervision of an item that is considered to have paid off the financing of excise. Typical illegal cigarettes are cigarettes that have different excise tapes, fake, take used excise tapes, and there are also those without excise tape labels.(Kupatadze, 2021) In the end, the circulation of illegal cigarettes has an impact on state revenue sourced from tobacco excise, which has the potential to be a violation, and can even trigger unfair competition between those who have obeyed the law to pay excise and those who are illegal. In addition, illegal cigarettes also do not contribute to state revenue and do not support the process of state administration, and income redistribution.(Scollo et al., 2015)

This criminal act of smuggling is regulated in Article 102A of Law Number 17 of 2006 concerning Customs which reads, "every person who imports goods without submitting a customs notice; deliberately informing the type and/or quantity of imported goods in the customs notification incorrectly as referred to in Article 11A paragraph (1) which results in the non-fulfillment of the state levy in the field of imports; loading imported goods within the customs area without the permission of the head of the customs office as intended in Article 11A paragraph (3); unloading imported goods within the customs area without the permission of the head of the customs office or; transporting export goods without protection with valid documents in accordance with the customs notification as referred to in Article 9A paragraph (1) shall be convicted of smuggling with a minimum prison sentence of 1 year and imprisonment for a maximum of 10 years and a fine of at least Rp.50,000,000 (fifty million) and a maximum of Rp.5,000,000,000 (five billion rupiah)." Cigarette excise is the largest tax generator in Indonesia, therefore customs is right to take action so as not to get losses in terms of excise, as for the way customs in smuggling is:

Passenger Profiling Analysis Passenger analysis is one way that can be used to identify and suspect passengers who can be categorized as illegal cigarette smugglers who are suspected by Customs and Excise officials with passenger databases which consists of the flow of the journey as well as the passenger and administrative profiles can be subject to severe criminal penalties for the carriers of illegal cigarettes. Gestures and Body Language Gestures and body language of passengers are one way to find out if they are carrying contraband,(Joossens & Raw, 2012) Gestures and body language are also one of the ways to carry out the process of taking action against perpetrators of illegal cigarette smuggling through ship passengers and people who will send goods through ships or boats. Customs and Excise as a special agency that can handle the entry and exit of goods has a very important role to be able to overcome the Crime of Smuggling of goods that are very detrimental to the State or society, especially Smuggling of illegal cigarettes which already has a criminal offense that regulates it and can be categorized as a Criminal Act, according to the Author of Customs and Excise in carrying out its duties and authorities in overcoming criminal acts The smuggling of illegal cigarettes has been carried out in accordance with Law Number 39 of 2007. Customs and Excise in carrying out law enforcement based on customs laws has two ways of law enforcement that can be carried out, namely preventive and repressive law enforcement. Preventive law enforcement in the excise sector is the inspection of all imported goods that violate laws and regulations, while repressive law enforcement by eradicating

criminal acts after violations of the law in the field of smuggling.(Paraje et al., 2022) The circulation of illegal cigarettes has been very rampant lately. Based on data in 2023 from the results of market operations, Entikong Customs secured 4,400 illegal cigarettes, the potential state loss for these goods is Rp.1,194,700.00 with a value of Rp.5,578,000.00. The circulation of cigarettes through the average use of the "rat path" found in the border area is used by irresponsible parties to smuggle illegal goods so that they are not subject to taxes.(DeCicca et al., 2022) Overcoming the spread of illegal tobacco in Entikong is very difficult and considered detrimental to the nation. Based on this study, it is clear that some police officers use illegal cigarettes because law enforcement is not optimal, namely the failure to achieve preventive and repressive enforcement, so the relative theory as a criminal goal has not been optimally realized. According to Leonard, the theory of relative punishment is the relative theory of punishment aimed at preventing and reducing crime.(Joossens et al., 2016) The purpose of the punishment must be able to change the behavior of criminal offenders and people in the future who have the potential to commit criminal acts, because basically the purpose of the punishment is to create order in society.(Tosza, 2021) The purpose of criminalization according to the theory is to scare people as an effort to prevent people from committing criminal acts and to provide a deterrent effect for the perpetrators of criminal acts so that they do not repeat their actions. The problem of the circulation of illegal cigarettes without excise duty in the Entikong area requires attention from various stakeholders, along with the increasing circulation of illegal cigarettes in the Entikong area.(Ulep et al., 2021) This can be seen from people who are not afraid of the tobacco trade.(Joossens & Raw, 2008) The efforts made by the customs are only a countermeasure in the form of inspections at stores and socialization about excise so that it still does not have a deterrent effect for individuals who are still selling or using illegal cigarettes, as well as socializing excisable goods of tobacco products (BKCHT).(Lindblom, 2019)

CONCLUSION

Law enforcement in the criminal act of trafficking illegal cigarettes or cigarettes without excise is still very not optimal, this is evident from the many cases that occur in the field. The main solution is that customs employees, especially investigators, must be more active and massive in conducting supervision in the field and collaborating with the community.

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