

THE CUSTOMS AND EXCISE LAW ENFORCEMENT OF ILLEGAL CIGARETTE SMUGGLING IN BULI SARANI VILLAGE, EAST HALMAHERA REGENCY, INDONESIA

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Abstract

The circulation of illegal cigarettes is quite worrying because it is widely circulated and traded in a number of shops, supermarkets and stalls in most areas of Buli Sarani Village, East Halmahera Regency, potentially disrupting the cigarette company factory market and also excise revenues even with the large number of illegal cigarettes circulating without excise that are unstoppable, it also has an impact on public health because of unlimited use. This study aims to determine the duties and authorities of Customs and Excise in tackling the smuggling of illegal cigarettes in Buli Sarani Village, East Halmahera Regency and to determine the obstacles of Customs and Excise in preventing the smuggling of illegal cigarettes in Buli Sarani Village. The type of research used in this study is the empirical legal investigation method. In this study, the author uses a live case study approach as an approach to legal events where the trial is still ongoing. Due to the smuggling of illegal cigarettes, it causes many losses and negative impacts for the country and damages the nation's generation, because this criminal act of smuggling can hinder national development, the potential for state taxes disappears, and embarrasses the nation due to the collaboration between the Indonesian people and foreign parties in committing a form of crime. It is hoped that the results of this research can be used as reference material in the development of legal science, especially in the study of criminal law and criminal procedure law regarding law enforcement by customs in the criminal act of illegal cigarette smuggling.

Keywords: *Cigarettes, Crime, Customs, Law Enforcement, Smuggling.*

INTRODUCTION

The authorized customs and excise officials are Civil Servant Investigators (PPNS) of Customs and Excise who are Criminal Investigators in the field of customs and excise, certain Civil Servant Officials within the Directorate General of Customs and Excise are given special authority as investigators as referred to in Law Number 8 of 1981 concerning Criminal Procedure Law to conduct investigations into criminal acts in the field of Customs and Excise (Hamzah, 2014). In this case, the provisions of criminal acts regarding excise are specifically regulated in Law Number 39 of 2007 concerning amendments to Law Number 11 of 1995 concerning Excise that Every person who offers, delivers, sells, or provides for sale excisable goods that are not packaged for retail sellers or are not affixed with excise tape or are not affixed with other excise payment marks and for Every person who stores, stores, owns, sells, exchanges, obtains, or provides excisable goods that are known or should be suspected to originate from a criminal act based on this law shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine of at least 2 (two) times the excise value and a maximum of 10 (ten) times the excise value that should be paid.

The crime of smuggling itself is a violation in export or import that can directly cause losses to the State (Law Number 39 of 2007 Concerning Amendments to Law Number 11 of 1995 Concerning Excise, 2007). The Directorate General of Customs and Excise in carrying out its mandate and authority, has the function as a revenue collector, community protector, trade facilitator and assisting industry (Industrial assistance). Broadly speaking, these four functions can be divided into 2 (two) major functions, namely service function and supervisory function. The Directorate General of Customs and Excise as one of the Government institutions under the Ministry of Finance which collects State finances broadly has 2 (two) main functions, namely Supervision and Service (Handoko, 2012). In order to carry out the supervisory function of transportation facilities, Customs and Excise officers are given the authority to be able to inspect the means of entry. Inspection of these means of transportation is to guarantee the

rights of the State and compliance with provisions in the field of customs and other provisions whose implementation is regulated by Customs (Murwani et al., 2020). The circulation of illegal cigarettes is quite worrying because it is widely circulated and traded in a number of shops, supermarkets and stalls in most areas of Buli Sarani Village, East Halmahera Regency, potentially disrupting the cigarette company factory market and also excise revenues, even with the large number of illegal cigarettes circulating without excise that are unstoppable, it also has an impact on public health because of unlimited use (Sutedi, 2012).

The actions carried out by Customs and Excise are generally carried out in small shops, but many of the sellers do not know that cigarettes without excise stamps are very detrimental to the state, the existence of cigarettes without excise stamps occurs because these cigarettes are cheaper than cigarettes that use excise stamps. Problem Formulation The problems in this formulation are as follows: (1) What are the duties and authorities of Customs and Excise in overcoming the smuggling of Illegal Cigarettes in Buli Sarani Village, Maba District, East Halmahera Regency? (2) What are the obstacles for Customs and Excise in preventing the smuggling of Illegal Cigarettes in Buli Sarani Village, Maba District, East Halmahera Regency? The problem-based approach method is expected to contribute to the development of science, especially in the field of criminal law and legal sociology, or more specifically, this research can enrich the literature on law enforcement of the crime of smuggling illegal cigarettes, so that it can be used as a reference for academics, researchers, and students who are interested in similar topics.

METHOD

This legal research is a type of empirical legal research. This type of research method is intended to solve existing problems at the present time by collecting data and compiling or classifying it, then analyzing and observing a legal reality in society to then obtain a result (Ali, 2016). In this case, the researcher uses an empirical juridical approach in analyzing the problem by combining legal materials (secondary data) with primary data obtained in the field, namely regarding the Role of Customs and Excise Implementation in Overcoming the Problem of Illegal Cigarette Smuggling in Buli Sarani Village, Maba District, East Halmahera Regency.

RESULTS AND DISCUSSION

Duties and Authorities of Customs and Excise in Combating Illegal Cigarette Smuggling in Buli Village, Maba District, East Halmahera Regency.

Research results, based on our 2025 research, indicate that the authority of customs investigators, or Civil Servants (PPNS), or those who have been replaced by Civil Servants (ASN), has its own regulations, regulated by Article 112 of Law Number 17 of 2006 concerning amendments to Law Number 10 of 1995 concerning Customs and Government Regulation Number 55 of 1996 concerning the Provision and Excise of Customs and Excise (Law Number 17 of 2006 Concerning Amendments to Law Number 10 of 1995 Concerning Customs, 2006). The duties and authorities of the Ternate Type C Customs and Excise Office relate to monitoring exported and imported goods. Customs and Excise officers also have the authority to take action against smugglers and confiscate goods as evidence to be handed over to the appropriate authorities, such as the police, or to conduct direct investigations at Customs and Excise (Chazawi, 2010).

In carrying out its duties and authorities, Customs and Excise is assisted by AVSEC, the Police, and the Harbor Master. These three government agencies are among those assisting Customs and Excise in handling the circulation of illegal cigarettes in Buli Village, Maba District, East Halmahera Regency (Husein, 1991). Our research analysis reveals that Customs and Excise, as the specialized agency responsible for handling the flow of goods, plays a crucial role in addressing the smuggling of goods, which is highly detrimental to the state and the public. This is particularly true of illegal cigarette smuggling, which has a specific criminal offense and can be categorized as a crime. According to the author, Customs and Excise has implemented its duties and authorities in addressing illegal cigarette smuggling in accordance with Law No. 39 of 2007 (Sujanto, 1986).

Customs and Excise has two functions: first, the supervisory function for excisable goods, such as cigarettes, which must be stamped with excise stamps. The implementation of the duties and authorities of the Ternate Type C Customs and Excise in enforcing illegal cigarette smuggling is guided by the aforementioned law, which includes:

1. At Sultan Babullah Airport in Ternate City, the following duties are performed: monitoring aircraft arriving from outside the city and their cargo, crew and passengers, and their cargo, as well as crew and passenger baggage.
2. Inter-island vessels bound for Ternate arriving from the Free Zone (Absori, Nugroho, et al., 2020).

In carrying out these duties and authorities, the Ternate Type C Customs and Excise Office consistently coordinates with relevant agencies to thwart the smuggling of excisable goods. Customs and Excise successfully

made arrests in 2023 and 2024. What we know is that cigarette excise is the largest tax earner in Indonesia. Therefore, Customs and Excise takes serious action to prevent the country from suffering losses due to excise duties. Customs and Excise's methods for combating smuggling include (Marpaung, 2019):

1. **Intelligence Analysis.** Intelligence analysis utilizes data and information processing to detect smuggling. Collecting both data and information is carried out. Information sources are obtained internally from the Directorate General of Customs and Excise through surveillance, monitoring, and other internal units. Collaboration with the police, aviation security, harbormasters, and transportation agencies, and other sources is also possible. The data is then analyzed and conclusions are drawn regarding suspected illegal cigarette smuggling (Budiono *et al.*, 2023).
2. **Passenger Profiling Analysis.** Passenger analysis is one method used to identify and suspect passengers suspected of smuggling illegal cigarettes by airport Customs and Excise officers, using a passenger database consisting of travel routes, passenger profiles, and customs declarations (Absori, Nurhayati, *et al.*, 2020).
3. **Customs Declaration:** A Customs Declaration is a notification and warning to passengers. Every means of transport and passenger is required to submit a customs declaration. Any passenger who fails to declare items that should be declared is considered a violation and is subject to administrative sanctions and can be subject to severe criminal penalties for carrying illegal cigarettes (Faisal & Ogli, 2025).
4. **X-Ray Inspection:** In the process of investigating the crime of smuggling illegal cigarettes through passengers, airport customs and excise officers use X-rays, a device used to detect luggage and shipments being carried or shipped (Wibowo *et al.*, 2023).
5. **Gestures and Body Language:** Passengers' gestures and body language are one way to determine whether they are carrying contraband. Gestures and body language are also one way to take action against perpetrators of narcotics smuggling through passengers, whether airplane passengers or ship passengers, as well as people sending goods through the post office (Alwan *et al.*, 2022).

The perpetrator carries out smuggling on the basis that the profits from selling illegal cigarettes are very large, therefore the perpetrator is really very serious about selling illegal cigarettes, which is clear in Law No. 37, which is absolutely prohibited because there is an element that the evidence is to be given to small shop shops, the rounds of illegal cigarettes are in small shop shops, and the sanctions given to small shop shops are not yet strict in Law No. 39 of 2007 of the criminal law.

Customs and Excise's Obstacles in Preventing Illegal Cigarette Smuggling in Buli Village, Maba District, East Halmahera Regency

The current smuggling method that often occurs is inserting illegal cigarettes into food cartons and smuggling at airports and post offices. This illegal cigarette smuggling often originates from abroad, such as Thailand and China, through the waters of Obi Island and then smuggled into the Obi area of South Halmahera Regency by sea. Based on the results of the author's interview on Wednesday, May 26, 2024 at 1:00 PM WIT with the Head of Section P2 (Enforcement and Investigation) of the Customs and Excise Service and Supervision Office of Type C Ternate, Joko, who stated; To handle the crime of smuggling legal cigarettes, Customs and Excise still faces several obstacles, including:

1. **Facilities and Infrastructure:** Limited facilities and infrastructure make it difficult for officers at the Ternate C-Type Customs and Excise Service and Supervision Office to take action against illegal cigarette smuggling.
2. **Lack of Public Awareness:** Most people are reluctant to provide information regarding illegal cigarette smuggling to customs and excise officers due to fear of risk to their lives.
3. **Lack of personnel:** Smuggling is very common in North Maluku Province, especially on Obi Island, South Halmahera Regency. Due to the lack of personnel, supervision and inspection of these illicit goods are inadequate.
4. **Smugglers willingly use their bodies as a smuggling site.** Perpetrators smuggle illegal cigarettes through their bodies, thus avoiding detection by customs and excise officers or airport personnel.
5. **The perpetrator provided fictitious information during the investigation process.** The perpetrator of the smuggling did not provide correct and clear information during the investigation process.

CONCLUSION

Due to the smuggling of illegal cigarettes, it causes many losses and negative impacts for the country and damages the nation's generation, because this criminal act of smuggling can hinder national development, the potential for state taxes disappears, and embarrasses the nation due to the collaboration between the Indonesian people and foreign parties in committing a form of crime.

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