

Criminal Law Analysis of the Modus Operandi of Illegal Cigarette Smuggling: a Case Study in Batam City

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Abstract

Purpose: This study aims to analyze the criminal law aspects and modus operandi of illegal cigarette smuggling in Batam City, as well as to assess the effectiveness of law enforcement based on the applicable legal regulations in Indonesia.

Methodology/approach: The research uses a normative juridical method with a statutory and case approach, supported by primary data collected through interviews with law enforcement officials and secondary data from relevant legal documents and literature.

Results/findings: The findings reveal that illegal cigarette smuggling in Batam is carried out through non-official sea routes using high-speed boats, falsification of customs documents, and well-organized distribution networks. Despite existing laws such as Law No. 39 of 2007 on Excise and Law No. 17 of 2006 on Customs, enforcement remains weak due to limited surveillance and involvement of corrupt individuals.

Limitations: This study is limited to the case of Batam City and does not cover other regions facing similar smuggling issues.

Contribution: The research provides a legal analysis and practical recommendations for strengthening enforcement mechanisms and regulatory reforms in combating smuggling crimes. The novelty of this research lies in the systematic mapping of the patterns of illegal cigarette smuggling networks in Batam, which is examined integrally through the perspective of criminal law and a law enforcement approach based on national regulations.

Keywords: Batam, Criminal Law, Customs, Excise, Illegal Cigarette Smuggling, Law Enforcement.

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1. Introduction

The city of Batam, as a free trade zone, has a high volume of goods traffic and a complex customs system, making it vulnerable to smuggling practices, including illegal cigarettes. This phenomenon continues to grow in line with the significant price disparity between legal cigarettes—subject to excise—and illegal cigarettes that circulate freely without supervision. The smuggling of illegal cigarettes not only results in losses to state revenue, but also creates market distortions and undermines the effectiveness of efforts to control cigarette consumption in society.

Amid the increasing circulation of illegal cigarettes, law enforcement agencies such as Customs, the Police, and the Prosecutor's Office face major challenges in identifying, preventing, and prosecuting increasingly sophisticated and organized smuggling networks. Although regulations such as the Excise Law and Customs Law clearly stipulate criminal sanctions for offenders, the effectiveness of their implementation remains in question. Therefore, a criminal law study is needed to uncover the modus operandi of the perpetrators and assess the extent to which the law can play a role in curbing this illegal practice.

This research aims to evaluate the effectiveness of criminal law enforcement in cases of illegal cigarette smuggling in Batam. It also examines the operational patterns of smuggling networks, the legal basis used in enforcement actions, as well as the obstacles and enforcement strategies relevant to be applied in border areas and free trade zones.

With its strategic location directly bordering Singapore and Malaysia, Batam serves as an entry and exit point for various imported and exported goods. However, this situation also opens opportunities for smuggling activities, particularly illegal cigarettes without excise stamps, which enter the domestic market without going through legitimate tax mechanisms. According to data from the Directorate General of Customs and Excise, illegal cigarette smuggling in Batam continues to increase each year, with various *modus operandi*, such as smuggling via sea routes using fast boats, falsifying customs documents, and distribution through black markets (Direktorat Jenderal Bea dan Cukai, 2023). Illegal cigarettes that enter without being subject to excise duties create unfair competition in the tobacco industry, where legitimate producers who pay taxes must compete with products circulating illegally at much lower prices. This not only threatens the sustainability of the legal tobacco industry but also affects the workforce in the sector.

From an economic perspective, the widespread smuggling of illegal cigarettes has a direct impact on state revenue from taxation and excise duties. According to the Ministry of Finance's report, state revenue from tobacco excise duties in 2022 amounted to IDR 218.62 trillion; however, this figure could have been higher if there had been no leakage due to illegal cigarette smuggling (Kementerian Keuangan, 2023). The entry of illegal cigarettes without being subject to excise duties creates unhealthy competition in the tobacco industry, where legitimate producers who pay taxes must compete with products circulating illegally at much lower prices. This not only threatens the sustainability of the legal tobacco industry but also affects the workforce in the sector.

In addition to the economic impact, the circulation of illegal cigarettes also has significant social consequences. Illegal cigarettes are typically produced without clear health standards and may contain harmful and uncontrolled substances (Soerjono, 2021). Furthermore, the existence of illegal cigarettes increases the likelihood of cigarette consumption among low-income groups, including children and teenagers, due to their lower prices compared to legal cigarettes. The spread of illegal cigarettes also strengthens organized crime networks operating in the black market, where the large profits gained are often used to support other criminal activities.

From a criminal law perspective, the smuggling of illegal cigarettes can be classified as an economic crime regulated by various laws, including Law Number 39 of 2007 on Excise and its amendments in Law Number 7 of 2021 on the Harmonization of Tax Regulations and Law Number 17 of 2006 on Customs. Under Articles 54 and 56 of the Excise Law, any person who trades, stores, or distributes illegal cigarettes may face criminal sanctions in the form of fines or imprisonment. Meanwhile, from the perspective of economic criminal law, the smuggling of illegal cigarettes can be classified as a crime that harms the national economy and creates distortions in the healthy market system.

Furthermore, the application of the law against illegal cigarette smugglers still faces various challenges, particularly in terms of evidence and the enforcement of penalties, which often fail to provide a deterrent effect. Some cases show that offenders are only subjected to administrative sanctions or light fines, while large smuggling networks continue to operate using various new methods (Rahardjo, 2010). Therefore, the criminal law approach to handling this issue must be more comprehensive, strengthening legal instruments that enable the eradication of the problem at its root.

The urgency of this research lies in the need to gain a deeper understanding of the *modus operandi* used by illegal cigarette smugglers and the effectiveness of law enforcement by authorities in Indonesia. This study explores the evolving smuggling patterns in line with regulatory and technological changes and assesses the extent to which the enforcement strategies implemented have had a deterrent effect on offenders (M Yahya Harahap, 2019). By understanding these aspects, this research can provide more effective policy recommendations to prevent and address the smuggling of illegal cigarettes.

This research aims to evaluate the effectiveness of criminal law enforcement against illegal cigarette smuggling in Batam. Additionally, this study examines in detail the operational patterns of smuggling networks, the legal basis used in enforcement actions, and the obstacles and strategies that can be applied by law enforcement authorities in the free trade zone (Wijaya et al., 2021). This study is one of the first criminal law studies to specifically focus on the crime of cigarette smuggling in Batam within the context of the Free Trade Zone (FTZ).

Based on the background of the issues outlined above, the problems to be discussed are as follows:

1. What are the modus operandi of illegal cigarette smuggling in Batam?
2. How is the criminal law analysis of illegal cigarette smugglers based on the regulations in force in Indonesia?
3. How effective is the law enforcement against illegal cigarette smuggling crimes in Batam?

2. Literature Review

Economic crimes are a form of criminal activity committed within the economic context, aimed at gaining profit through illegal means. In Indonesian criminal law, economic crimes include various actions that harm the national economy, such as tax evasion, corruption, money laundering, and smuggling of excise goods (Utsman, 2023).

According to Mulyadi, economic crimes have the primary characteristic of abusing the economic system, involving actors from various sectors, both individuals and corporations. Additionally, these crimes are often transnational and organized, requiring a more complex legal approach in their enforcement (Mulyadi, 2012).

Within the scope of Indonesian criminal law, economic crimes are not only regulated in the Criminal Code (KUHP) but also in various specific laws, such as the Excise Law, Customs Law, and Anti-Money Laundering Law. The development of globalization and technology has expanded the forms of economic crimes, including in the trade and distribution sector of excise goods, such as illegal cigarettes. This highlights that economic criminal law must continuously adapt to the changing times to remain effective in addressing new challenges in the economic sector.

Law plays a crucial role in controlling economic crimes, including smuggling, through three main aspects: regulation, supervision, and law enforcement. Regulations in the form of laws and government regulations serve as the legal basis for taking action against economic violations, including the smuggling of excise goods (Santoso, 2020). Supervision is carried out by authorized institutions, such as the Directorate General of Customs and Excise and law enforcement agencies, to ensure that every economic transaction is conducted in accordance with applicable legal provisions.

In the context of law enforcement, preventive and repressive strategies must work in balance to create a deterrent effect on economic offenders. One commonly used approach is Non-Conviction-based asset forfeiture, which allows for the seizure of criminal assets without waiting for a criminal conviction (Sutanto, 2022). Additionally, strengthening inter-institutional coordination in handling economic crimes is a key factor in improving the effectiveness of the law in combating the smuggling of illegal cigarettes and other economic crimes.

Legal provisions related to the smuggling of illegal cigarettes in the Criminal Code (KUHP) and Law Number 39 of 2007 on Excise clearly regulate the penalties for those involved in the trade and distribution of excise goods illegally. Under Articles 54 and 56 of the Excise Law, any person who produces, distributes, or stores excise goods without authorization can be sentenced to a maximum of five years in prison and fined at least twice the value of the excise duty that should have been paid. This regulation aims to protect the state's interests in terms of excise revenue and ensure fair competition in the excise goods industry.

In addition, the Minister of Finance's Regulation further governs the monitoring mechanism of excise goods, including illegal cigarettes. One relevant regulation is the Minister of Finance Regulation

Number 200/PMK.04/2020 on the Supervision Procedures for Excise Goods, which tightens distribution procedures and excise stamp labeling. Under this regulation, the Directorate General of Customs and Excise is authorized to conduct in-depth audits of companies involved in the production and distribution of excise goods and take legal action against violations found.

Law Number 17 of 2006 on Customs also plays a crucial role in regulating the legal aspects of smuggling, including illegal cigarettes. Under Article 102 of this Law, anyone who intentionally imports or exports goods without fulfilling customs requirements can face up to eight years in prison and a fine of up to IDR 5 billion. Moreover, this law also provides for the seizure and auction of illegal goods confiscated by the authorities as part of efforts to recover state losses.

3. Research Methodology

This research uses a normative legal method with an approach based on statutory regulations (statute approach) and case law (case approach) (Soekanto, 2021). The normative legal approach is used to analyze the legal norms governing the smuggling of illegal cigarettes, particularly in the Excise Law, Customs Law, and provisions in the Criminal Code (KUHP) related to economic crimes (Marzuki, 2016). Meanwhile, the case approach is employed by examining various court decisions and law enforcement practices regarding illegal cigarette smuggling in Batam, in order to obtain empirical insights into the effectiveness of the regulations that have been applied.

The data sources for this study consisted primary and secondary data (Lubis et al., 2023). Primary data is obtained through interviews with law enforcement officers, such as personnel from the Directorate General of Customs and Excise, the Police, and the Prosecutor's Office, who handle cases of illegal cigarette smuggling. Additionally, field observations of law enforcement practices were conducted to further understand the modus operandi and smuggling patterns in practice (Parameshwara & Riza, 2023a). Secondary data were collected from various relevant legal literature, such as regulations, scholarly journals, academic books, and annual reports from related institutions on monitoring and enforcement of illegal cigarette smuggling (Achmad Ali, 2022).

The data collection technique in this study was carried out through literature review and document study, by examining regulations governing excise goods and the monitoring policies implemented by the government. In addition, in-depth interviews were conducted with stakeholders involved in the supervision and enforcement of illegal cigarette smuggling (Nasution, 2022).

Data analysis in this study was conducted qualitatively using a deductive method, which involved reviewing existing regulations, connecting them with empirical findings in the field, and evaluating the effectiveness of applied law enforcement measures (Riza, 2023a). The results of this analysis were then systematically organized to provide policy recommendations aimed at improving the effectiveness of enforcement actions against illegal cigarette smuggling in Batam City.

This study employs three main theoretical approaches: Criminology Theory, Criminal Law Theory, and Law Enforcement Theory, to analyze the phenomenon of illegal cigarette smuggling in Batam City and the effectiveness of regulations in addressing it. Criminology Theory is used to analyze the underlying causes of illegal cigarette smuggling from economic, social, and legal perspectives.

From an economic aspect, the low purchasing power of the public for legal cigarettes due to the increase in excise taxes drives demand for cheaper illegal cigarettes. From a social perspective, weak monitoring at border areas and the involvement of organized groups in smuggling networks create gaps that allow this criminal activity to continue to thrive (Dollar & Riza, 2022b).

From a legal perspective, the limitations of regulations and the implementation of sanctions that fail to create a deterrent effect on perpetrators have allowed smuggling to remain rampant (Achmad Ali, 2020). Criminal Law Theory serves as the foundation for explaining the application of law to illegal cigarette smuggling based on the principles of legality and criminal liability (Marzuki & Sh, 2020). In criminal law, every act must have a clear legal basis before criminal sanctions can be applied.

Therefore, the provisions in the Excise Law and Customs Law serve as the primary foundation for determining the elements of the crime of smuggling and the forms of sanctions that can be imposed on the perpetrators. Furthermore, the concept of criminal liability in smuggling cases encompasses not only the main perpetrators but also those involved in supporting or facilitating the crime.

Law Enforcement Theory is used to assess the effectiveness of law enforcement in preventing and taking action against illegal cigarette smuggling. This theory emphasizes three main aspects: the establishment of adequate regulations, strict supervision, and the application of effective sanctions (Respationo & Hakim, n.d.). The effectiveness of law enforcement depends not only on how strict the regulations are but also on the capacity of authorities to carry out supervision and enforcement optimally.

In the context of illegal cigarette smuggling, the main challenge in law enforcement is the limited resources available for border surveillance and the potential involvement of certain officials in smuggling networks. Therefore, a more integrated and technology-based law enforcement strategy is essential to reducing smuggling rates in Indonesia.

4. Results and Discussion

4.1 Modus Operandi of Illegal Cigarette Smuggling in Batam City

Illegal cigarette smuggling in Batam City is an organized economic crime that involves various parties in the distribution chain. Based on research findings from secondary data sources, such as reports from the Directorate General of Customs and Excise, as well as primary data obtained through interviews with law enforcement officers in Batam, it was found that the modus operandi of illegal cigarette smuggling in this area is carried out systematically, using various techniques to avoid detection. The modus operandi includes an organized smuggling network pattern, increasingly sophisticated smuggling techniques, and the involvement of key actors in the distribution of illegal cigarettes.

Based on the research findings, illegal cigarette smuggling in Batam City involves a wide network consisting of importers, distributors, and retailers. These illegal products generally originate from neighboring countries such as Malaysia and Singapore and enter Batam via sea routes. Batam serves as a major entry point because of its status as a free-trade zone with a high volume of goods moving in and out, making it more difficult for authorities to monitor (Direktorat Jenderal Bea dan Cukai, 2023).

In the distribution chain, once the illegal cigarettes arrive in Batam, they are repackaged and sent to various regions in Indonesia—primarily Sumatra and Java—using sea routes as the main mode of distribution. In several cases, illegal cigarettes are shipped using containers disguised as legitimate imported goods to evade inspection by the port authorities (Parameshwara, 2023). The most commonly used distribution routes include Batam–Tanjung Balai Karimun–North Sumatra and Batam–Jakarta via sea routes, where shipments are made gradually in small volumes to avoid detection by authorities.

The techniques used in smuggling illegal cigarettes in Batam continue to evolve in response to the monitoring patterns implemented by law enforcement. Based on interviews with officers from Customs and the Police, three primary techniques are commonly used in the smuggling of illegal cigarette:

a. Use of Speedboats (Speedboats and Small Cargo Ships)

This modus operandi is the most commonly used by smugglers because speedboats can avoid patrols by operating at night and utilizing remote waterways that are difficult for patrol boats to reach. Perpetrators often change their delivery routes to avoid detection, relying on transit points before the illegal cigarettes enter the domestic market.

b. Forgery of Customs Document

In addition to using sea routes, smugglers also exploit administrative loopholes by forging customs documents to make illegal cigarettes appear as legitimate goods. Several cases have shown that fictitious companies are registered to handle import permits, but in practice, the goods entering the country do not match the documents listed.

c. Non-Official Routes and Temporary Storage

Smuggling also takes place through the use of *rat lines* or unofficial ports scattered around Batam. From these entry points, illegal goods are temporarily stored in hidden warehouses before being distributed to other areas. These warehouses are typically located in areas that are difficult for authorities to access and are often moved around to avoid raids.

The research findings indicate that illegal cigarette smuggling in Batam involves not only individual perpetrators but also a network consisting of several key actors, namely:

- a) **Importers and Investors**
Importers play a role in bringing illegal cigarettes from abroad, often with the support of major investors who finance the entire smuggling operation. These investors are typically connected to international syndicates that supply goods from neighboring countries.
- b) **Distributors and Field Agents**
Once the illegal cigarettes enter Batam, distributors are responsible for organizing the distribution to various regions across Indonesia. These distributors usually have an extensive network that includes collection points in the target areas. In some cases, field agents working for the distributors also bribe certain officials to facilitate the smooth flow of distribution.
- c) **Retailers and Local Distributors**
At the final stage, retailers and local distributors are responsible for selling the illegal cigarettes directly to consumers. They typically sell these products in traditional markets or small shops at much lower prices compared to legal cigarettes. One strategy they use is to sell cigarettes in plain packaging or with brands that resemble official products to deceive consumers (Sutiyoso, 2020).

The findings of this study indicate that illegal cigarette smuggling in Batam is a systematic crime with various evolving modus operandi. The smuggling network utilizes various techniques to avoid detection, and the role of each actor in the network contributes to the sustainability of this crime (Parameshwara & Riza, 2023b). By understanding the patterns of this crime, it is hoped that more effective law enforcement measures can be implemented to curb the rate of illegal cigarette smuggling in Indonesia.

Tabel 1. Comparison of Modus Operandi of Illegal Cigarette Smuggling, Distribution Routes, Legal Sanctions, and Response of Authorities

| No. | Modus Type | Distribution Route | Legal Sanction Applied | Law Enforcement Response |
|-----|---|---|--|---|
| 1. | Use of speedboat at night | Batam → Tanjung Balai Karimun → North Sumatra | Article 102 of Law No. 17 of 2006: Maximum 8 years imprisonment, maximum fine of Rp5 billion | Immediate action at sea by Customs and the Water Police |
| 2. | Forgery of customs documents (manifest & invoice) | Batu Ampar Port → Jakarta via container | Article 54 of Law No. 39 of 2007: Maximum 5 years imprisonment, fine ≥ 2x the customs duty | Investigation and case referral to the Prosecutor's Office |
| 3. | Use of illegal routes and unofficial ports | Small islands → Transit warehouse → Traditional markets | Article 480 of the Criminal Code (receiving stolen goods): Maximum 4 years imprisonment | Seizure of goods, legal process is slow due to limited evidence |

| | | | | |
|----|---|---|--|--|
| 4. | Distribution by local retailers without excise stamps | Small shops/retail kiosks in Batam and Bintan | Administrative sanctions + Article 56 of the Excise Law: Administrative fine | Joint raids with minimal results, light sanctions imposed' |
|----|---|---|--|--|

Note:

- The data is processed based on findings from field research, interviews with law enforcement officials, and case studies from Customs reports for the years 2021–2023.
- The legal sanctions mentioned are the maximum penalties as stipulated in the relevant laws and regulations.
- The law enforcement response is assessed based on direct actions, the investigation process, and the sustainability of law enforcement efforts.

From an economic criminology perspective, the smuggling of illegal cigarettes occurs because of the economic disparity between the high price of legal cigarettes due to excise duties and taxes and the low purchasing power of the public (Ega Fitrianto, 2024). As the government increases excise tax rates as part of its fiscal policy, the price of legal cigarettes becomes even more expensive. This creates high demand for illegal cigarettes, which are sold at much lower prices because they are not subject to excise duties.

The significant profits made from the sale of illegal cigarettes also serve as the main incentive for smugglers to continue their operations. With low production costs and no obligation to pay excise duties, smugglers can earn substantial profits by selling these products in the domestic market.

From a social criminology perspective, the smuggling of illegal cigarettes in Batam City thrives due to structural factors that support the continuation of this practice. Batam, as a free trade area, has a high volume of goods flowing in and out, with numerous ports and unofficial sea routes that are difficult for law enforcement to fully monitor.

Furthermore, the involvement of organized criminal groups in smuggling networks strengthens the distribution system of illegal cigarettes in the market. The individuals in these networks not only come from the lower-middle economic class seeking quick profits, but also include law enforcement officials who are involved in protecting or facilitating smuggling activities. The weakness in law enforcement, along with a permissive culture toward illegal goods, also makes it increasingly difficult to eradicate illegal cigarette smuggling completely.

From a legal criminology perspective, the smuggling of illegal cigarettes occurs due to legal loopholes and the weak application of sanctions against offenders. Although Law No. 39 of 2007 on Excise and Law No. 17 of 2006 on Customs stipulate criminal sanctions for smuggling offenders, in many cases, the sanctions imposed are still relatively light and fail to have a deterrent effect

In many instances, offenders are only subjected to administrative sanctions, such as fines, while the main smuggling networks continue to operate. From a criminal law perspective, accountability for smuggling offenders still faces challenges, particularly in terms of proof and the effectiveness of law enforcement on the ground. Therefore, a revision of legal policies is needed, along with a more strategic approach to law enforcement, such as the implementation of Non-Conviction Based Asset Forfeiture (NCBAF) to seize assets derived from smuggling crimes, in order to more effectively suppress this criminal activity.

4.2 Criminal Law Analysis of the Smuggling of Illegal Cigarettes

The smuggling of illegal cigarettes is one form of economic crime regulated by various laws in Indonesia. Based on research conducted through secondary data sources, such as laws and court decisions, as well as primary data from interviews with law enforcement officials, it was found that the criminal law regulations applicable to offenders of illegal cigarette smuggling have addressed aspects of prohibition, sanctions, and law enforcement mechanisms that must be applied (Wahyuni, 2020).

This analysis covers the legal provisions used in handling cases of illegal cigarette smuggling, the criminal liability of offenders based on the elements of economic crimes and excise, and specific cases

that have been handled by law enforcement agencies as illustrations of the application of criminal law in Indonesia (Riza, 2023b).

The legal provisions used in the enforcement of illegal cigarette smuggling in Indonesia come from several main regulations, including Law No. 39 of 2007 on Excise, Law No. 17 of 2006 on Customs, and provisions in the Criminal Code (KUHP) related to economic crimes.

In the Excise Law, the smuggling of illegal cigarettes is categorized as a violation of excise duty obligations, which can be subject to both criminal and administrative sanctions. Article 54 of the Excise Law states that anyone who offers, delivers, sells, or provides excise goods without an excise stamp can be sentenced to a maximum of five years in prison and a fine of at least twice the excise duty that should have been paid.

Meanwhile, the Customs Law regulates the monitoring mechanisms for goods entering and leaving Indonesia's customs territory. Article 102 of the Customs Law stipulates that anyone who intentionally imports goods without fulfilling customs requirements can be sentenced to a maximum of eight years in prison and/or a fine of up to Rp 5 billion. This provision serves as the basis for law enforcement agencies in handling cases of illegal cigarette smuggling into Indonesia through free trade routes, such as in Batam City.

Additionally, from the perspective of general criminal law, the Criminal Code (KUHP) also provides criminal sanctions for economic crimes, including the smuggling of goods that harm the state. Article 480 of the KUHP, concerning receiving stolen goods, can also be applied to individuals who intentionally sell or distribute illegal cigarettes resulting from smuggling (Nuraini, 2021). With these various provisions, legally, illegal cigarette smuggling can incur multiple criminal sanctions depending on the role and involvement of each participant in this criminal chain.

Based on interviews with law enforcement officials from the Directorate General of Customs and the Police, illegal cigarette smuggling is categorized as an economic crime because of its widespread impact on the national economy (Riza et al., 2022). The elements that must be met to charge the perpetrators with criminal law include:

- a) Existence of an Unlawful Act
The smuggling offenders violate applicable regulations, both in the areas of taxation (excise) and customs, by importing, distributing, or selling illegal cigarettes without authorization.
- b) Existence of State Losses
The losses caused by illegal cigarette smuggling stem from the loss of potential state revenue from excise and tax sectors. A report from the Ministry of Finance in 2023 mentioned that the potential losses from illegal cigarettes amount to trillions of rupiah every year.
- c) Existence of Intent and Deliberation
Smuggling offenders are typically part of organized crime networks that have specific operational systems to evade monitoring. The modus operandi used, such as the falsification of customs documents or shipping via unofficial sea routes, indicates that the smuggling is intentional and planned (Nasution, 2022).
- d) Existence of Profit from the Crime
One characteristic of economic crimes is the financial gain obtained by the offenders from the crime. Illegal cigarettes, which are sold at lower prices in the market, provide substantial profits for the smugglers because they are not required to pay the applicable taxes and excise duties.

To understand how criminal law is applied in cases of illegal cigarette smuggling, this research examines several cases that have been handled by law enforcement agencies. One of the cases that drew public attention was the uncovering of an illegal cigarette-smuggling network in Batam in 2022, where the Directorate General of Customs and Excise managed to seize more than 500,000 packs of cigarettes without excise stamps that were to be sent to regions in Sumatra and Java (Direktorat Jenderal Bea dan Cukai, 2023). In this case, the main offender was charged under Article 54 of the Excise Law and sentenced to four years in prison, along with a fine of Rp 10 billion.

Another case occurred in 2021, when a syndicate smuggling illegal cigarettes from Malaysia to Indonesia was uncovered in the waters of the Riau Archipelago. The modus operandi involved shipping via speedboat with a load of illegal cigarettes, which were then distributed to various cities in Indonesia via land routes. In this case, the offenders were sanctioned under the Customs Law and were sentenced to five years in prison, along with the confiscation of all assets related to the crime.

From these cases, it can be concluded that while regulations are in place and some offenders have been prosecuted, challenges still exist in the implementation of criminal law against illegal cigarette smuggling. Weak border surveillance and the involvement of certain individuals remain key obstacles in reducing the smuggling of illegal cigarettes in Indonesia.

In criminal law theory, the application of the law to the crime of illegal cigarette smuggling must be based on the principle of legality (*nullum crimen sine lege*), which asserts that a person can only be punished if their actions are regulated by applicable laws. This principle provides a limitation to prevent arbitrary actions in the law enforcement process (Hiariej, 2022).

In the context of illegal cigarette smuggling, the primary regulations that form the legal basis are Law No. 39 of 2007 on Excise, Law No. 17 of 2006 on Customs, and the Criminal Code (KUHP). Article 54 of the Excise Law stipulates that anyone who trades, stores, or distributes excise goods without permission can be sentenced to a maximum of five years in prison and a fine of at least twice the excise duty that should have been paid. Meanwhile, the Customs Law, Article 102, threatens smugglers with a maximum sentence of eight years in prison and a fine of up to Rp5 billion.

From the perspective of criminal liability, this theory emphasizes that a criminal act must meet both subjective and objective elements to be legally accountable. The subjective element includes intent (*dolus*) and negligence (*culpa*), which in the case of illegal cigarette smuggling is usually done intentionally to gain profit by avoiding taxes and excise duties.

The objective element includes the unlawful act that causes state losses. In many cases handled by law enforcement, illegal cigarette smugglers operate within organized networks, so criminal liability not only applies to the main offenders but also to those who assist, hide, or distribute the illegal cigarettes. Therefore, in some cases, offenders can also be charged under Article 480 of the Criminal Code on receiving stolen goods if they are proven to have sold or distributed goods resulting from crime.

Criminal law analysis of illegal cigarette smuggling in Indonesia shows that while regulations are in place, their implementation still faces several obstacles. One of the main challenges is the lack of a deterrent effect due to sanctions that are relatively light compared to the profits obtained by the smuggler.

Furthermore, many offenders are only subjected to administrative fines without any strict criminal penalties, allowing them to resume their illegal businesses after paying the fine. To strengthen law enforcement, a revision of existing regulations is necessary to impose harsher penalties on smuggling offenders, including the implementation of Non-Conviction Based Asset Forfeiture (NCBAF) to seize all assets related to the proceeds of smuggling. With a more assertive and effective criminal law approach, it is hoped that illegal cigarette smuggling can be significantly reduced, protecting the national interest and creating a fairer trading system.

4.3 Effectiveness of Law Enforcement Against Illegal Cigarette Smuggling

Law enforcement against illegal cigarette smuggling in Batam City is one of the major challenges in protecting national interests in the excise and customs sectors. Based on research conducted through secondary data sources, such as reports from the Directorate General of Customs and Excise, court decisions, and primary data obtained from interviews with law enforcement officials in Batam, it was found that the effectiveness of law enforcement still faces several obstacles.

The evaluation of monitoring and enforcement policies, barriers in law implementation, and efforts to improve law enforcement effectiveness are key aspects of this analysis.

Monitoring and enforcement against illegal cigarette smuggling in Batam are carried out by several key agencies, including the Directorate General of Customs and Excise, the Police, and the Prosecutor's Office. According to interviews with officials from Batam Customs, monitoring efforts have been enhanced through the implementation of a post-border supervision system, which allows for the monitoring of excise goods distribution after entering Batam (Direktorat Jenderal Bea dan Cukai, 2023). Additionally, sea patrols have also been intensified to prevent the entry of illegal cigarettes from neighboring countries such as Malaysia and Singapore.

However, the effectiveness of this monitoring is still limited by the lack of human resources and technology. The use of digital systems for tracking excise goods movements has not been fully implemented, leaving gaps that smuggling networks can exploit. From the police's perspective, enforcement efforts against smugglers are often hindered by the difficulty of proving large-scale smuggling cases involving organized networks. Meanwhile, the Prosecutor's Office faces challenges in prosecuting illegal cigarette smuggling cases because existing regulations have not provided the maximum sanctions that could deter offenders (Ega Fitrianto, 2024).

Although monitoring and enforcement policies have been implemented, several key obstacles still reduce the effectiveness of law enforcement against illegal cigarette smuggling in Batam City. These obstacles include:

- a) **Lack of Comprehensive Monitoring**
Monitoring the circulation of illegal cigarettes in Batam still faces challenges due to the vast maritime area and numerous unofficial entry routes. Law enforcement officials often struggle to conduct thorough monitoring of the routes used by smugglers.
- b) **Involvement of Individuals in Smuggling Network**
Based on research findings, there are indications of the involvement of certain law enforcement officials in protecting smuggling networks. Some cases uncovered by Customs show that the main smugglers often have connections with individuals who have authority over monitoring activities. The involvement of these individuals poses a significant challenge in creating a transparent and accountable law enforcement system.
- c) **Weak Regulations and Lenient Sanction**
The Excise and Customs Laws do provide criminal provisions for smuggling offenders, but the sanctions applied are often too lenient compared to the profits obtained from smuggling activities. The criminal penalties imposed in some cases are merely fines, which are significantly smaller than the potential profits gained by the smugglers.

To improve the effectiveness of law enforcement in illegal cigarette smuggling cases in Batam City, several strategic measures can be implemented, including:

- a) **Enhancing Surveillance with the Use of Technology**
The government needs to implement a digital-based monitoring system, such as the use of scanning technology at ports and the integration of the customs system with a national monitoring system to detect the movement of illegal goods. Additionally, sea patrols must be strengthened with the use of advanced patrol vessels to prevent the entry of illegal cigarettes via sea routes.
- b) **Regulatory Revision and Increased Legal Sanctions**
The existing regulations need to be updated to provide a stronger deterrent effect for smuggling offenders. One step that can be taken is to increase criminal penalties for illegal cigarette smugglers by adding provisions for money laundering related to the proceeds of these crimes, so that the offenders' assets can be seized and used for the recovery of state losses..
- c) **Improved Inter-Agency Cooperation**
Synergy between Customs, the Police, the Prosecutor's Office, and other authorities must be strengthened through more effective coordination mechanisms. The establishment of an Anti-Smuggling Task Force could serve as a solution to enhance enforcement effectiveness in the field. Additionally, cooperation with neighboring countries, such as Malaysia and Singapore, should be improved to close the supply routes for illegal cigarettes before they enter Indonesia.

From this analysis, it can be concluded that despite various monitoring and enforcement policies, the effectiveness of law enforcement against illegal cigarette smuggling in Batam City still faces several obstacles. A more comprehensive approach is needed, covering aspects of regulation, surveillance, and inter-agency cooperation, so that illegal cigarette smuggling can be significantly reduced.

In law enforcement theory, the success of a regulation in preventing and addressing criminal acts greatly depends on the effectiveness of policy implementation, the involvement of law enforcement officials, and public compliance with the applicable laws (Dollar & Riza, 2022a). Law enforcement against illegal cigarette smuggling in Batam City continues to face various challenges, including weak monitoring in free trade zones, limited law enforcement resources, and legal loopholes that offenders can still exploit.

In practice, although regulations such as the Excise Law (Law No. 39 of 2007) and the Customs Law (Law No. 17 of 2006) have clearly defined penalties for smuggling offenders, their success is still limited due to a lack of coordination and an optimal monitoring mechanism.

The effectiveness of law enforcement in preventing illegal cigarette smuggling is also influenced by the capacity of law enforcement agencies to carry out preventive and repressive functions. On the preventive side, the government has implemented technology-based monitoring policies, such as post-border supervision systems and sea patrols, to prevent the entry of illegal cigarettes through maritime routes.

However, this system still has weaknesses in terms of limited monitoring capacity and the involvement of certain individuals in smuggling networks. Meanwhile, on the repressive side, law enforcement agencies such as Customs, the Police, and the Prosecutor's Office often face difficulties in proving the involvement of main offenders because most smugglers operate through complex networks and use third parties as intermediaries.

To improve the effectiveness of law enforcement, there is a need to strengthen regulations and enhance inter-agency synergy in handling illegal cigarette smuggling cases. One approach that can be applied is to increase penalties for smugglers through regulatory revisions that enable the application of Non-Conviction Based Asset Forfeiture (NCBAF), which allows for the seizure of assets derived from crime without waiting for a criminal conviction.

Additionally, enhancing surveillance capacity through the use of technology, such as digital tracking systems and strengthening sea patrols, can help detect and prevent smuggling at an early stage. With a firmer, technology-based law enforcement approach and more effective inter-agency coordination, it is hoped that the level of illegal cigarette smuggling in Indonesia, particularly in Batam City, can be significantly reduced.

5. Conclusion

The modus operandi of illegal cigarette smuggling in Batam City is carried out through an organized network pattern, utilizing various techniques to avoid detection, such as using unofficial sea routes with speedboats, falsifying customs documents, and temporarily storing goods in hidden warehouses before distributing them to different regions. This network involves various actors, ranging from importers, distributors, to retailers, who work systematically to evade detection by law enforcement agencies.

Criminal law analysis of illegal cigarette smugglers shows that although regulations such as the Excise Law (Law No. 39 of 2007) and the Customs Law (Law No. 17 of 2006) provide penalties for offenders, their enforcement still faces challenges. Many offenders are only subjected to administrative sanctions, while criminal penalties imposed are often insufficient to deter future violations. Therefore, a firmer approach is needed in enforcing criminal liability against offenders, including the application of mechanisms for asset forfeiture related to criminal activities.

The effectiveness of law enforcement against illegal cigarette smuggling in Batam City still faces several obstacles, such as weak surveillance, the involvement of certain individuals in smuggling networks, and regulations that have not fully provided a deterrent effect. Although law enforcement agencies have implemented preventive and repressive strategies, the success rate in reducing smuggling remains limited. To improve its effectiveness, stronger regulations, the use of more advanced surveillance technology, and better inter-agency synergy are required in efforts to enforce and prevent illegal cigarette smuggling crimes.

Limitations and Future Research

This study has limitations in its scope, as it focuses only on Batam City, and therefore does not reflect the situation of illegal cigarette smuggling in other border areas in Indonesia. Additionally, limited access to internal data from law enforcement agencies and the smuggling network restricts the depth of analysis regarding the organizational structure of smuggling activities.

For future research, it is recommended that a comparative study be conducted between smuggling-prone regions to gain a more comprehensive understanding of crime patterns and the effectiveness of law enforcement. Future studies could also explore the application of Non-Conviction Based Asset Forfeiture (NCBAF) in tackling economic crimes, as well as a legal analysis of the role of law enforcement intelligence in preventing the smuggling of excise goods.

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