



ISSN 2810-0182 (Online)

ACITYA WISESA: Journal of Multidisciplinary Research

<https://journal.jfpublisher.com/index.php/jmr>

Vol. 4, Issue 3 (2025)

doi.org/10.56943/jmr.v4i3.851

Law Enforcement on Illegal Cigarette Distribution by Customs Investigators in East Java I Region

Wisnu Ardiansah^{1*}, Sugiharto², Imam Suroso³

¹wisnuardiansah@gmail.com, ²sugiharto@ubhara.ac.id, ³imam@ubhara.ac.id

¹Research Division, Indonesian Advocates Association (PERADI), ¹²³Universitas Bhayangkara Surabaya

*Corresponding Author: Wisnu Ardiansah

E-mail: wisnuardiansah@gmail.com

ABSTRACT

The circulation of illegal cigarettes is a serious challenge for the state in maintaining economic stability and public welfare. Many small cigarette entrepreneurs in Indonesia are concerned about the widespread distribution of illegal cigarettes. They are dissatisfied with the performance of Customs officers, who are perceived as not being stringent enough in enforcing regulations. The impact of the extensive circulation of illegal cigarettes, particularly those without excise stamps, causes legal cigarette entrepreneurs to face difficulties in competing, resulting in a decline in their production. Although many legal cigarette entrepreneurs have paid excise to the state, the reality is that the circulation of illegal cigarettes in the market is increasing, leading to a decrease in state revenue. Illegal cigarettes, sold at lower prices, tempt consumers to choose illegal products over legal and registered ones. This situation is very detrimental and highlights the need for firm and consistent actions from Customs officers. The Civil Servant Investigators (PPNS) of Customs and Excise play a crucial role in uncovering and taking action against such circulation within their jurisdiction. This study analyzes the efforts of the PPNS of Customs and Excise in uncovering illegal cigarettes at the Regional Office of the Directorate General of Customs and Excise of East Java I through a juridical-empirical approach. The research methodology involves document study, interviews, and direct observation. The results show measures such as increased supervision, socialization, inter-agency cooperation, and enforcement. Constraints include a lack of information regarding perpetrators and online circulation patterns. It is recommended that the PPNS enhance coordination, tracking systems, and regulations, as well as increase public awareness about the dangers of illegal cigarettes. These measures are expected to improve the effectiveness in handling the circulation of illegal cigarettes.

Keywords: Criminal Act, Disclosure, Excise, Tax Law, Illegal Cigarettes

INTRODUCTION

Indonesia, endowed with abundant natural resources, holds a vital role in global trade (Wati et al., 2024; Zulianto et al., 2022). Each year, the country exports a variety of commodities including agricultural products, fisheries, and manufactured goods while also importing significant volumes to satisfy domestic consumption. The dynamics of globalization have intensified Indonesia's integration with neighboring countries, reinforcing its position within the ASEAN Economic Community (AEC). However, this integration has also elevated the risk of cross-border illegal trade activities, including the circulation of illicit goods (Marpaung, 2009).

The proliferation of illegal goods has become a recurring issue in national discourse and media coverage. Two critical motives underscore the urgency to address this problem. First is the need to preserve foreign exchange reserves, essential for supporting national development goals, including the procurement of products not yet locally manufactured and the funding of foreign expertise. Second is the imperative to protect domestic industries particularly those in their developmental stages from the adverse effects of market penetration by imported goods. These protections are crucial for reducing unemployment and boosting national income.

Indonesia's unique geographical position strategically located between two continents and two oceans exposes it to increased vulnerability to transnational economic crimes, including the illegal circulation of untaxed cigarettes. This issue has led to substantial economic losses, especially for small-scale legal cigarette producers who have expressed dissatisfaction with the perceived lack of firmness in enforcement by Customs officers. The presence of untaxed cigarettes in the market significantly disrupts the production and competitiveness of legal tobacco enterprises, particularly due to unfair price competition stemming from the absence of excise obligations.

The extensive distribution of illegal cigarettes not only undermines legitimate tobacco industries but also erodes state excise revenue. Lower prices for illegal cigarettes entice consumers to prefer illicit products over those that are legally registered and taxed. This situation highlights the urgent need for strict and consistent intervention by state authorities, particularly the Directorate General of Customs and Excise, in addressing illegal cigarette circulation a direct violation of the national excise framework (Taufiqah, 2017). Addressing excise-related crimes, especially concerning illegal tobacco distribution, demands a multifaceted approach that integrates tax administration, policy intervention, and legal enforcement (Mahkamah Konstitusi Republik Indonesia, 2024).

Theoretically, law enforcement efforts must be anchored in foundational legal principles. From Socrates to François Geny, natural law theorists have long

regarded justice as the pinnacle of legal systems. The Natural Law Theory emphasizes the “pursuit of justice” (Friedrich, 2004), offering various interpretations on the distribution of rights, liberties, power, income, and welfare within a just society. The theories of Plato, Aristotle, and John Rawls particularly Rawls’ theory of distributive justice represent diverse paradigms in conceptualizing justice in social and political contexts.

In addition to justice, the principle of legal certainty is indispensable. Legal certainty demands that the law be formally codified by authorized entities to ensure that rules acquire juridical legitimacy and function as binding normative standards (Zainal, 2012). Considerations of law enforcement must also transcend individual cases to address collective offenses, including organized crimes that endanger public order.

Criminal punishment theories have evolved to reflect shifting societal dynamics in confronting emerging crimes. In criminal law, various theories of penal objectives include the retributive theory, deterrence or utilitarian theory, integrative theory, treatment theory, and social defense theory. Each of these perspectives articulates distinct purposes for criminal punishment, shaping the design and application of legal sanctions (Priyanto, 1997). The retributive theory, a principal framework, posits that punishment serves as a proportional response to criminal conduct, thereby ensuring justice and accountability. According to this theory, the suffering inflicted by criminal acts must be counterbalanced by appropriate penalties imposed on offenders as a means of upholding justice (Marpaung, 2009). These theoretical lenses underscore the broader objectives of criminal punishment: maintaining social order, achieving justice, and shielding society from the threats posed by criminality.

Beyond these philosophical and theoretical discourses, the topic of excise taxation warrants careful attention. According to the Kamus Besar Bahasa Indonesia, excise is defined as a levy imposed by the state on specific goods possessing particular characteristics, such as those requiring consumption control or posing potential harm to society or the environment (Kamus Besar Bahasa Indonesia, 2024). Legally, excise represents a vital source of national revenue, notably from cigarette products subject to excise stamps. Fraud in the production and distribution of cigarettes without excise stamps constitutes a legal violation punishable under criminal law.

Excise differs from general taxation due to its selective scope, discriminatory intent, and quantitative assessment in determining liability, consistent with the economic analysis offered by Cnossen (2005). Based on Law No. 11 of 1995 as amended by Law No. 39 of 2007, excise is defined as a specific levy imposed on designated goods according to statutory regulations.

Illegal cigarettes refer to tobacco products circulated within Indonesia either domestically produced or imported that fail to comply with the applicable legal requirements. The enforcement authority of Civil Servant Investigators (PPNS) in

addressing criminal offenses in the excise domain, particularly the illicit trade of cigarettes, is grounded in prevailing laws. PPNS under the Directorate General of Customs and Excise are mandated to take preventive measures to suppress illegal cigarette distribution, as stipulated in Law No. 10 of 1995 on Customs. They are authorized to investigate customs-related offenses, including fiscal crimes, pursuant to Article 112(1) of Law No. 17 of 2006 on Customs. Investigations must adhere to the procedures outlined in the Criminal Procedure Code (KUHAP) as well as the implementing provisions of excise and customs law that govern enforcement authority within the Directorate General of Customs and Excise.

In view of these considerations, this study aims to investigate the law enforcement practices employed by PPNS officers in the East Java I Regional Office of the Directorate General of Customs and Excise in combatting the circulation of illegal cigarettes. The analysis adopts a normative-empirical approach that integrates theoretical foundations, legal provisions, and field-based enforcement strategies.

RESEARCH METHODOLOGY

The legal research methodology employed in this study adopts a juridical-empirical approach. This method aligns with the characteristics of qualitative research, which emphasizes the collection of descriptive data through written or verbal narratives from participants, as well as from observable behavior (Moleong, 2016). Within the framework of this legal study, the approach used is *socio-legal studies*, which focuses on investigating how individuals and legal entities perceive and interact with the law within practical contexts.

This method enables an in-depth analysis of legal perceptions and behavioral patterns observed among the research subjects (Utsman, 2013). In this regard, the approach necessitates the integration of both legal and social sciences to explore the implementation of positive law by the state, particularly how it functions and is applied in real-world conditions (Efendi, 2016). The socio-legal studies approach in this research aims to generate a grounded understanding of law enforcement practices through direct field engagement, specifically examining how the principles of legal enforcement are applied to offenders involved in the distribution of illegal cigarettes within the jurisdiction of the East Java I Regional Office of the Directorate General of Customs and Excise.

RESULT AND DISCUSSION

Legal Implications of Illegal Cigarette Trade in East Java I Customs Jurisdiction

The gate of any corporate entity, significantly a university, is not just a passageway into the interior contents of its space but the emblematic image and symbol of such entity, attesting to the formidable and indomitable qualities of the

institution as exemplified in the University of Lagos. The Main Gate of the Akoka campus (Plate 1) is not just a beauty but a masterpiece both in design and the artistic sense of the word. It is a culmination of gates and walls, though seemingly simple, but a complex art engineering technology. It was newly renovated and commissioned to its current state in 2023. The main gate is located at the south wing of the campus, welcoming staff, students (freshers and stalites), and visitors (tourists and commuters) en route to Yaba and Bariga into the Akoka campus. The walls of the gate play host to four solid pillars, two on each side of the divide, and a centrally built structure, serving as the security office and checkpoint.

The pillars hosted a total of four slim beams and motored projectiles, made from cylindrical metal pipes, stretching from the pillars' source on both sides of the divide. The projectiles are suspended with a total of eight long chains (two on each side of the pillar), extending to the top flank of the central security post. The projectiles are clad in black gloss paint and covered at the top with aluminium sheets, serving momentary shade for residents and visitors within their perimeter. The post, apart from being an abode for security officers and a checkpoint, is clad in light cream and dark wine hue, designed to serve as a solid base and an imaginary institution's torch, doubling as host to the University logo, clad in white, green, blue, and black pigments. The walls, pillars, and central posts are clad in light orange and reddish brown. The gates are made in a simple, adjustable rectangular form with metal pipes, coloured in white and black gloss paint. Holistically, the imagery of the University Main Gate gives the illusion of a bird in motion and a burning torch stand, attesting to the citadel's solidity and grandeur in intellectual capability.

The high demand for tobacco products in Indonesia has led the government to impose elevated excise tariffs on tobacco. This policy, however, has prompted certain individuals to evade excise obligations by distributing cigarettes without tax stamps in pursuit of higher profits. Such actions constitute legal violations, including those regulated under Article 54 of Law No. 39 of 2007 on Excise. The production of cigarettes without excise stamps constitutes an illicit practice, wherein manufacturers produce and distribute tobacco products without fulfilling the excise payment obligations mandated by law. Producers engaged in such activities typically aim to maximize profits by circumventing the tax system. However, this practice is unlawful and poses serious risks to the economy, public health, and the stability of the legitimate tobacco industry. To maintain fairness within the tax system and protect public interests, the government has implemented legal measures, including sanctions against individuals or entities involved in the production and distribution of untaxed cigarettes. For instance, in Bojonegoro Regency, Customs authorities uncovered illicit cigarette manufacturing operations involving registered excise entrepreneur numbers (Nomor Pokok Pengusaha Barang Kena Cukai or NPPBKC).

The counterfeiting of excise stamps is another form of illegal activity, where counterfeit stamps are affixed to tobacco products to avoid tax payments. This

practice undermines the state's economy by reducing government revenue from tobacco taxes. Furthermore, such illegal products frequently fail to comply with national safety and quality standards, increasing health risks and further deteriorating public well-being. According to Article 55 of Law No. 39 of 2007 on Excise, this offense is punishable by imprisonment of one to five years and a fine ranging from two to ten times the amount of excise due, as part of the government's efforts to ensure tax justice and safeguard public welfare (Kementerian Keuangan Direktorat Jenderal Bea dan Cukai, 2021).

The legal implications of illegal cigarette distribution are severe and impact multiple sectors. Violations of excise and tobacco trade regulations such as stamp counterfeiting, smuggling, and the production of untaxed cigarettes carry significant criminal penalties. Articles 54 and 55 of Law No. 39 of 2007 on Excise stipulate that offenders may be sentenced to imprisonment ranging from one to five years, along with fines of no less than twice and up to ten times the excise value due. Furthermore, Articles 102 and 103 of Law No. 17 of 2006 on Customs establish similar sanctions for individuals involved in the smuggling of untaxed cigarettes, including substantial prison terms and financial penalties (Undang-Undang Nomor 17 Tahun 2006 Tentang Kepabeanan, 2006).

The circulation of illegal cigarettes results in substantial financial losses for the state due to the forfeiture of cigarette tax revenues that should be allocated to the national treasury. This revenue loss has the potential to disrupt fiscal policy and influence national budgetary allocations. Moreover, illegal cigarettes often fail to meet the health and safety standards established by government authorities, thereby endangering public health and increasing the risk of tobacco-related illnesses. The presence of these products in the market undermines the integrity of public health initiatives. In addition to fiscal and health consequences, illegal cigarette trade severely harms the legitimate tobacco industry by fostering unfair competition, threatening job security, and potentially slowing the pace of national economic growth.

The juridical review of illegal cigarette distribution in the East Java I Regional Office of the Directorate General of Customs and Excise highlights essential legal aspects, including excise tax regulations and the classification of cigarettes that fail to meet national health and safety standards. The theoretical review applies John Rawls' theory of distributive justice to analyze the legal implications of illegal cigarette trade, emphasizing equitable justice and the broader social consequences of law enforcement efforts. The sociological perspective deepens the understanding of consumer behavior toward illicit cigarettes, the underlying social structures enabling their circulation, public compliance with legal norms, and the resulting public health impacts. This analysis serves as a foundational basis for the development of more effective policies aimed at addressing the complex challenges posed by illegal cigarette distribution.

Law Enforcement Against Illegal Cigarette Distributors in East Java I Customs Jurisdiction

The Directorate General of Customs and Excise (DJBC), as part of the Ministry of Finance, is responsible for administering customs and excise duties in accordance with national fiscal policy. DJBC regulates the flow of goods entering and leaving the customs territory and collects import duties, export duties, and other state levies as prescribed by prevailing customs and excise regulations. In East Java Province, DJBC has established the East Java I Regional Office, located in Surabaya, to facilitate effective government oversight and service delivery in the context of rapid international trade. This office also plays a strategic role in supporting industrial development and ensuring compliance with trade regulations.

The East Java I Regional Customs Office is tasked with coordinating, providing technical guidance, and overseeing the implementation and evaluation of customs and excise activities within its jurisdiction. Pursuant to Minister of Finance Regulation No. 183/PMK.01/2020, the East Java I Regional Office supervises seven Customs Supervision and Service Offices (Kantor Pengawasan dan Pelayanan Bea dan Cukai or KPPBC), namely KPPBC Tanjung Perak, Juanda, Sidoarjo, Pasuruan, Gresik, and Bojonegoro. Each KPPBC oversees a designated operational area, which includes key infrastructures such as seaports, airports, and surrounding districts or municipalities, ensuring effective supervision in compliance with applicable legal frameworks.

The Civil Servant Investigators (PPNS) of the East Java I Regional Office of the Directorate General of Customs and Excise (DJBC) have undertaken various coordinated efforts to combat the distribution of illegal cigarettes within their jurisdiction. These efforts include heightened surveillance at key entry points, routine intensive patrols, and collaborative operations with law enforcement agencies and other relevant institutions. In addition to operational enforcement, PPNS officials engage in public education through outreach programs that raise awareness about the dangers associated with illegal cigarettes.

Public communication campaigns are strategically implemented to promote legal compliance and discourage the consumption and trade of untaxed tobacco products. Moreover, the East Java I PPNS actively conducts intelligence-gathering, enforcement operations, and formal investigations to detect and prosecute those involved in the illegal tobacco trade across the region. These integrated measures aim to establish a more controlled regulatory environment and significantly reduce the circulation of illegal cigarettes in East Java.

Law enforcement actions continue to be carried out to prevent and suppress the illegal circulation of untaxed cigarettes. These enforcement efforts consist of both preventive and repressive measures. Preventive actions include regulatory outreach, field surveillance, and regular patrols aimed at deterring the distribution of illegal tobacco products. Repressive measures involve arrests, market operations, confiscation of illicit goods, and the destruction of unauthorized cigarette products.

Sanctions are imposed in accordance with the Excise Law, encompassing both administrative penalties (fines) and criminal sanctions (imprisonment and substantial monetary penalties). These measures are designed to reduce instances of tobacco excise stamp counterfeiting and ensure greater compliance with Indonesia's excise regulations.

Administrative sanctions under the Excise Law refer to fines imposed for 22 categories of violations stipulated in the legislation (Semedi, 2019). One example involves violations related to cigarette manufacturing licenses, which may result in fines ranging from IDR 20,000,000 to IDR 200,000,000. The primary objectives of administrative sanctions are to expedite the resolution of regulatory breaches, safeguard state revenue, and promote deterrence against future violations. Criminal sanctions, as imposed by the courts for violations of penal provisions under the Excise Law, include imprisonment ranging from a minimum of one year to a maximum of five years, along with fines amounting to no less than twice and up to ten times the unpaid excise value. The purpose of these criminal penalties is to create a deterrent effect, particularly in cases involving the distribution of untaxed cigarettes or the use of counterfeit excise stamps.

Law enforcement against the perpetrators of illegal cigarette distribution within the jurisdiction of the East Java I Regional Office of the Directorate General of Customs and Excise involves several layers of analysis. From a juridical perspective, the focus lies in the application of legal frameworks and regulatory mandates that underpin the authority of the Directorate General of Customs and Excise in addressing illicit tobacco trade, including Law No. 17 of 2006 and Law No. 39 of 2007. The theoretical review draws on key legal philosophies, such as John Rawls' theory of justice and Lon L. Fuller's principles of legal morality, along with the concept of legal certainty as discussed by Jeremy Bentham and Hans Kelsen. These frameworks offer foundational insight into the normative justification and structure of law enforcement practices concerning illegal cigarettes. From a sociological standpoint, law enforcement must account for broader societal values, including the principles of justice, retributive accountability, utilitarian outcomes, and legal certainty. These dimensions are essential to ensure that enforcement actions are not only legally valid but also socially just, practically effective, and beneficial to the broader public interest.

CONCLUSION

The circulation of illegal cigarettes presents a persistent legal and socio-economic challenge in Indonesia, particularly within the jurisdiction of the East Java I Regional Office of the Directorate General of Customs and Excise. The widespread distribution of untaxed tobacco products undermines public health, distorts fair market competition, reduces state revenue, and weakens legal compliance within the tobacco industry. Law enforcement efforts undertaken by

Civil Servant Investigators (PPNS) of DJBC East Java I demonstrate a multifaceted strategy encompassing preventive and repressive measures. These include field surveillance, public education, inter-agency collaboration, intelligence gathering, seizure operations, and legal prosecution of offenders. Such actions are reinforced by both administrative and criminal sanctions, as stipulated in Law No. 39 of 2007 on Excise and Law No. 17 of 2006 on Customs.

A juridical review emphasizes the application of existing statutory instruments, while theoretical frameworks such as Rawls' distributive justice, Bentham's utilitarianism, and Kelsen's legal positivism highlight the need for a balanced and principled approach in enforcement. The sociological perspective further underscores the importance of public compliance, behavioral change, and community awareness in combating the illegal cigarette trade. Overall, effective enforcement of excise law requires not only legal precision but also theoretical grounding and social engagement. Sustained efforts, strategic coordination, and adherence to the principles of justice and public interest are essential to reduce the prevalence of illegal cigarettes and to strengthen the rule of law in Indonesia's excise system.

REFERENCES

- Cnossen, S. (2005). *Theory and practice of excise taxation: smoking, drinking, gambling, polluting, and driving/* (S. Cnossen (ed.)). Oxford University Press.
- Efendi, J. (2016). *Johnny Ibrahim, Metode Penelitian Hukum Normatif dan Empiris*. Prenada Media Group.
- Friedrich, C. J. (2004). *Filsafat Hukum Perspektif Historis*. Nuansa dan Nusamedia.
- Kamus Besar Bahasa Indonesia. (2024). *Cukai*.
- Kementerian Keuangan Direktorat Jenderal Bea dan Cukai. (2021, March). *Bea Cukai Ungkap Produksi Rokok Tanpa Izin dan Pita Cukai Palsu*.
- Mahkamah Konstitusi Republik Indonesia. (2024). *Ketentuan Tindak Pidana Perpajakan Memiliki Kekhususan Sistematis*.
- Marpaung, L. (2009). *Asas-Teori-Praktek Hukum Pidana*. Sinar Grafika.
- Moleong, L. J. (2016). *Metodologi Penelitian Kualitatif*. Remaja Rosdakarya.
- Priyanto, D. (1997). *Sistem Pelaksanaan Pidana Penjara Di Indonesia, PT. Rafika Aditama*.
- Semedi, B. (2019). *Modul Tindak Pidana Kepabeanan dan Cukai*. Pusdiklat Bea Dan Cukai.
- Taufiqah, T. dan N. Y. (2017). Efektivitas Pasal 54 Undang-Undang Nomor 39 Tahun 2007 Tentang Cukai Berkaitan Dengan Peredaran Rokok Ilegal Di Kabupaten Pamekasan Tinjauan Masalah Mursalah. *Jurnal of Islamic Business Law, 01(03)*.
- Undang-Undang Nomor 17 Tahun 2006 Tentang Kepabeanan (2006).
- Utsman, S. (2013). *Dasar-dasar sosiologi Hukum: Dilengkapi Proposal Penelitian Hukum*. legal Research), Pustaka Belajar.
- Wati, T. A., Dr. Yahman, Y., & Dr. Karim, K. (2024). AN ANALYSIS OF LAND RIGHTS MORTGAGE FROM A CIVIL LAW PERSPECTIVE. *Acitya Wisesa: Journal of Multidisciplinary Research, 3, 1–9*.

<https://doi.org/10.56943/JMR.V3I4.727>

Zainal, A. (2012). *Pengantar Tata Hukum Indonesia*. Rajawali Press.

Zulianto, I., Yusuf, N. S., Nomeritae, N., Redin, H., Amelia, V., & Misrita, M. (2022). HEC-RAS SIMULATION OF FLOOD MANAGEMENT IN SERUYAN RIVER. *Acitya Wisesa: Journal of Multidisciplinary Research*, 1, 1–18. <https://doi.org/10.56943/JMR.V1I3.133>