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## Analysis Of Disclosure Of Criminal Acts Of Abuse Of Subsidized Fuel Based On Justice Values (Research Study At The Riau Islands Special Criminal Research Directorate)

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**Abstract:** Misuse of transportation and commercial crimes are strictly regulated in Article 55 of Law Number 22 of 2001 concerning Oil and Natural Gas. Carrying out misuse without permission (illegal) has a specific aim and purpose to benefit oneself by exploiting or taking advantage of the conditions of a place or area that has a scarcity of fuel oil or is far from petrol stations. Methodologically, this research is a juridical empirical research with a legal and sociological approach. Finally, this research found that the enforcement of criminal law against commercial acts of subsidized fuel oil was found. As for the research results of the Special Criminal Investigation Directorate of the Riau Islands Regional Police, facts were found regarding the disclosure of 4 cases in 2022, 2 cases in 2023 and 2 cases in 2024, all of which advanced to the 2nd stage of delegation to the public prosecutor, the author assesses Law enforcement in theory, namely a form of effort carried out by law enforcement officials, which in the case above is the Police and aims to ensure whether existing and regulated laws are running as they should, and are in accordance with what is happening in the field. The efforts as intended consist of preventive and repressive efforts. Based on the results of research conducted by the author regarding the obstacles faced, namely internal controls including a) Limited Number of Personnel Number of personnel, b) Limited Operational Facilities; c) Personality or Mentality of Personnel in the practice of carrying out police duties and authority; d) Lack of Quality Personnel To create professional police; e) Limited Operational Funds To carry out their duties and roles as law enforcers, external obstacles include, a) Community factors b) lack of Legal Awareness; and finally the efforts made by the Special Criminal Investigation Directorate of the Riau Islands Regional Police a) Increasing community participation by conducting outreach; b) Placing Police personnel in distribution routes and vulnerable points; c) Conduct legal education to the community.

**Keywords:** Law Enforcement, Subsidized Fuel Crime

### INTRODUCTION

In Article 40 number 1 of Law Number 6 of 2023 concerning the Stipulation of

Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the Job Creation Perppu Law) which amends Article 1 number 1 of Law Number 22 of 2001 concerning Oil and Natural Gas (hereinafter referred to as the Oil and Natural Gas Law) it is stated that what is meant by petroleum is: The result of a natural process in the form of hydrocarbons which under atmospheric pressure and temperature conditions are in a liquid or solid phase, including asphalt, mineral wax or ozokerite, and bitumen obtained from the mining process, but does not include coal or other hydrocarbon deposits in solid form obtained from activities unrelated to Oil and Natural Gas business activities. The definition of Fuel Oil (BBM) can be seen in Article 40 number 1 of the Job Creation Perppu Law which amends Article 1 number 4 of the Oil and Gas Law, namely Fuel derived and/or processed from Petroleum.

Fuel Oil Subsidy (BBM) is a government policy in helping certain communities by the government selling oil to the community at a price below world oil, assistance provided by the government to producers or consumers so that the goods or services produced are cheaper and can be reached by the wider community. Incidents of selling subsidized fuel oil without a permit have occurred in many places. These incidents are activities without a permit to collect, accommodate and store as well as trade permits that do not comply with the management business permit that has received recommendations from the regional government as stipulated in Article 23 paragraph 1 of Law Number 22 of 2001 concerning Oil and Natural Gas. Provisions regarding misuse of transportation and criminal acts of trade are strictly regulated in Article 55 of Law Number 22 of 2001 concerning Oil and Natural Gas (MIGAS), where anyone who misuses the transportation and/or trade of BBM, whether petroleum, gas fuel or processed products subsidized by the government, without a transportation permit and/or trade permit from the authorized party can be punished in accordance with applicable provisions.

Article 55 of Law Number 22 of 2001 concerning Oil and Natural Gas defines misuse as an activity aimed at obtaining personal or business entity benefits in a manner that is detrimental to the interests of the wider community and the State, such as, among others, the activities of mixing BBM, deviations in BBM allocation, transportation and sale of BBM, transportation and sale of BBM abroad. The main criminal provisions governing misuse and/or trade also recognize additional criminal penalties in the form of revocation of rights or confiscation of goods used for or obtained from criminal acts in oil and natural gas business activities. Implementation of misuse without permission (illegal) has a specific purpose and objective to benefit oneself by utilizing or taking advantage of the conditions of a place or area that has a shortage of fuel oil or is far from a gas station. Illegal misuse of fuel (without permission), especially subsidized fuel, is an activity of processing, buying, moving and/or storing fuel oil by buying fuel oil when the fuel oil is still in normal condition.

The fuel oil is traded again at a price that has been increased from the normal price. In reality, there are still many perpetrators of selling fuel oil without permission in several places, various factors from within and from outside that influence so that until now it still occurs. Starting from the scarcity of fuel oil, to the economic factors of the perpetrator or the perpetrator. The impact that often occurs, there are various losses caused by the sale of fuel oil without a permit. Therefore, the law cannot stand on its own, meaning that it is not capable of realizing the promises and wishes contained in the legal regulations. This kind of opinion is in line with what was put forward by Satjipto Raharjo who stated that "Law enforcement is an effort to realize ideas into reality, the process of realizing these ideas is the essence of law enforcement" . Along with the development of human civilization, the forms, types and methods of corruption also continue to develop and become increasingly sophisticated.

## **METHOD**

The specification and/or type of research proposed in this thesis is normative legal research while combining it with sociological (empirical) legal research using secondary data obtained directly as the first source through field research through in-depth interviews. The approach method in this study is a combination of the normative approach "legal research" with the empirical approach method "juridical sociologies". The research mechanism with this combined approach method is carried out by describing the explanation of the inductive research method leading to the deductive method and vice versa. This is done by the author to help explain the relationship between research variables and research objects so that it can produce an understanding that is very helpful for readers, especially researchers and academics. The location of the research was at the Special Criminal Research Directorate of the Riau Islands Regional Police, Nongsa District.

## **RESULTS and DISCUSSION**

### **Legal Regulations for Disclosing Criminal Acts of Subsidized Fuel Misuse**

The 1945 Constitution of the Republic of Indonesia Article 33, Energy Law Number 30 of 2007 and Oil and Gas Law Number 22 of 2001 are the legal basis for the government to be able to limit fuel subsidies. The government should have banned the use of subsidized fuel for four-wheeled vehicles and above, non-public transportation types. This subsidized fuel restriction policy is to prevent the swelling of the State Revenue and Expenditure Budget which is the source of funding for the subsidy, rather than the government having to increase the price of subsidized fuel and it will clearly have an impact on the economic life of the community. Law No. 22 of 2001 concerning Oil and Natural Gas is one of the legal bases in the management of oil and natural gas. The law states that oil and gas are one of the strategic and non-renewable natural resources and are national wealth controlled by the state. In the field of energy and mineral resources, the Indonesian government through ratifying the Law of the Republic of Indonesia Number 22 of 2001 concerning Oil and Natural Gas, which aims to manage natural resources, namely Fuel Oil, so that it can be processed and enjoyed for the benefit and welfare of the Indonesian people as a whole.

In reality, there are still many individuals who transport and store fuel without a permit in several places, especially in the city of Batam, various internal and external factors that influence it so that it still occurs until now. Starting from the scarcity of fuel, to the economic factors of the perpetrators or individuals themselves. The impact that often occurs, there are various losses caused by the sale of fuel without a permit. Law Number 22 of 2001 concerning Oil and Natural Gas contains the main substance regarding the provisions that oil and natural gas are strategic natural resources controlled by the state, and their implementation is carried out by the Government as the holder of the mining authority in upstream business activities. While in downstream business activities are carried out after obtaining a business license from the Government. In order for the Government's function as a regulator, supervisor and supervisor to run more efficiently, an implementing agency is formed in upstream business activities, while a regulatory body is formed in downstream business activities. Subsidized fuel oil (BBM) which should be distributed to the general public, but in reality, fuel oil (BBM) is actually "enjoyed" by hoarders/storage workers who are known among the public as "pelangsir" who resell it to companies in areas outside the Batam City area, especially distributed for industrial purposes so as to obtain greater profits.

The sanctions that can be imposed on perpetrators of misuse of subsidized fuel will be dealt with firmly as regulated in Article 55 of Law No. 22 of 2001 concerning Oil and Natural Gas, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. Misuse of Subsidized Fuel Oil in Law No. 22 of 2001 concerning Oil and Natural Gas, it is explained that misuse is an activity aimed at obtaining individual or business entity profits by

harming the community and the state, including activities of mixing fuel oil, misappropriation of fuel oil allocation, transportation and sale of fuel oil abroad. For Fuel Oil retailers, who store fuel without a business license can still be subject to criminal penalties as regulated in Law No. 22 of 2001 concerning Oil and Natural Gas

### **Effectiveness of Disclosure of Criminal Acts Of Subsidized Fuel Misuse**

Based on Law Number 2 of 2002 concerning the Republic of Indonesia Police, Article 14 letter (g) stipulates that: The Republic of Indonesia Police is tasked with conducting investigations and inquiries into all criminal acts in accordance with criminal procedure law and other laws and regulations". From these provisions, the Police are authorized to conduct investigations and inquiries into all criminal acts, including distribution, especially storage and transportation without a permit of subsidized fuel oil illegally in Batam City. The police have the authority to conduct investigations and inquiries so that criminal acts can be sanctioned, in articles 5 and 7 of the Criminal Procedure Code (KUHP) it is stated that the authority in investigations and inquiries is: Article 5 paragraph 1 of the Criminal Procedure Code. The implementation of misuse of subsidized fuel oil by transporting and storing has a specific purpose and objective to benefit oneself by utilizing or taking advantage of the conditions of a place or area that has a shortage of fuel oil or is far from a gas station. Illegal misuse of fuel oil (without permission) is an activity of processing, buying, moving and/or storing fuel oil by buying fuel oil when the fuel oil is still in normal condition. The fuel oil is traded back at a price that has been increased from the normal price.

The procedure for investigation is carried out immediately after a report or complaint of a crime. Investigators who know, receive a report or complaint about an event that is suspected to be a crime are required to immediately carry out the necessary investigative actions (Article 106 of the Criminal Procedure Code). Investigations by civil servant investigators are given instructions by the Police Investigators. For the purposes of the investigation, the Police investigators provide instructions to certain civil servant investigators and provide the necessary investigative assistance. Based on the results of the interviews conducted by the author at the Directorate of Special Criminal Investigation of the Riau Islands Regional Police, it is known that law enforcement against illegal trade in subsidized diesel fuel has been carried out properly, although there are still several obstacles that cause the law enforcement to be less than optimal.<sup>54</sup> The author assesses that law enforcement in theory is a form of effort made by law enforcement officers, which in the case above is the Police, and aims to ensure whether the existing and regulated laws have been implemented properly and are in accordance with what is happening in the field. The efforts as intended consist of preventive efforts and repressive efforts. Preventive efforts are essentially efforts made to prevent violations of the law/norms from occurring, carried out in ways such as providing information, appeals, supervision/monitoring and patrols, as preventive efforts have also been carried out by the Special Criminal Investigation Directorate of the Riau Islands Regional Police.

Criminal law enforcement against illegal subsidized fuel trade in the Riau Islands Police jurisdiction, if associated with how law enforcement is theoretically carried out, namely the implementation of the law by law enforcement officers and by a handful of people who have the authority and interests according to applicable legal regulations, then it is appropriate. That criminal law enforcement against the illegal trade in subsidized diesel fuel has been carried out by authorized law enforcement officers, namely the Directorate of Special Criminal Investigation of the Riau Islands Police and this is intended to implement legal regulations as contained in the Oil and Gas Law and also Law (UU) Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 which amends several articles in the Oil and Gas Law and several other regulations that also regulate the trade in subsidized fuel..

## **Obstacles and Constraints in The Process of Disclosing Criminal Acts of Subsidized Fuel Misuse**

Based on the results of the research conducted by the author regarding the obstacles faced in enforcing the law against criminal acts of misuse of subsidized fuel oil (BBM), the following explanation was obtained First, Limited Number of Personnel The number of personnel available when handling criminal acts in general and criminal acts of misuse of subsidized fuel oil (BBM) in particular is still not ideal (limited). The results of an interview with the Head of Sub-Directorate 4 Tipidter obtained data that the ideal number of personnel at the Ditreskrimsus Polda Kepri is 197 people while the current real condition of personnel is 116 people so that there is a shortage of personnel of 81 people. If we look at the number of personnel at Sub-Directorate 4 Tipidter Ditreskrimsus Polda Kepri who do have the main task of enforcing the law in the field of Certain Criminal Acts, one of which is Criminal Acts in the Oil and Gas sector, the ideal number of personnel should be 31 people but in reality currently only has 21 personnel. This refers to the Regulation of the Chief of Police The number of personnel available when compared to the number of cases that must be handled is not optimal so that it becomes an obstacle in the effectiveness of handling cases, especially cases of criminal acts of misuse of subsidized fuel oil (BBM).

Second, Limited Operational Facilities Limited operational facilities and other facilities that support police duties such as handy talky (HT) communication devices totaling only 13 units, operational vehicles, both single-wheeled and four-wheeled, to reach remote or isolated island areas are very limited, currently the Directorate of Special Criminal Investigation is only supported by 5 four-wheeled vehicles, 2 of which are leadership vehicles while there are only 4 two-wheeled vehicles, this is certainly also one of the inhibiting factors for personnel mobility in enforcing the law on criminal acts of misuse of subsidized fuel. Third, Personality or Mentality of Personnel In the practice of implementing police duties and authorities, problems often arise, because attitudes and behaviors are seen as exceeding authority. In relation to the personality and mentality of law enforcers, especially the police, there is still police behavior that often makes decisions and policies not based on legal aspects, but rather caused by factors such as: bribery or bribes to officers, deposits from certain officials who have influence both within the police and from outside the police.

Fourth, Lack of Quality of Personnel to create a professional police certainly becomes an obstacle for the police, one of which is the problem of education, lack of personnel with vocational backgrounds, so that in handling a case it is felt that they are not proficient, plus the slowness of police personnel in learning changes in the modus operandi of crime, so that the current handling pattern has not yet obtained encouraging results, not to mention the poor service that is often complained about by the public, adding to the series of obstacles and problems faced by the police. Based on the results of an interview with the Head of Sub-Directorate 4 Tipidter, the investigators of the Ditreskrimsus Polda Kepri, totaling 115 people who have participated in the dikbangpers function of the criminal investigation, as many as 79 people while 36 people have not participated. Fifth, Limited Operational Funds for Criminal Investigations to carry out their duties and roles as law enforcers, especially in investigating criminal acts of fuel oil (BBM) abuse, which require expert testimony for the perfection of the Investigation Report (BAP) requires a relatively large budget. For that, in order for the investigation to run effectively, it must be supported by adequate funds and facilities. The facts in the field are that operational funds are insufficient so that they (members) themselves take the initiative to spend money. The Criminal Investigation Fund budgeted by the state for the very difficult case category per case is only Rp. 31,357,419.00 with a target of handling cases for 1 year of 16 cases so that the total budget owned by Subdit 4 Tipiter Ditreskrimsus Polda Kepri to carry out law enforcement for 1 year is Rp. 501,718,000.00. If the value of the budget per case allocated is compared to the level

difficulty of handling cases and the geographical conditions of the Riau Islands Province, which is mostly ocean and borders Singapore and Malaysia, are certainly not comparable and are very small.

External problem is First, the factor of the community being late in reporting Officers often encounter obstacles in arresting and following up on perpetrators of fuel abuse, be it the place of mixing, hoarding or the distribution process. The community who knows that fuel abuse has occurred is sometimes late in reporting, of course this makes it difficult for the police to arrest the perpetrators without evidence. The community itself is considered less proactive in assisting the police in uncovering fuel abuse or misappropriation because they themselves do not want to deal directly with the police, this factor is often the reason for the community being late in reporting. Second, Lack of Public Legal Awareness Factors Low public legal awareness is also an obstacle in investigating criminal acts of misuse of subsidized fuel oil (BBM). With high public legal awareness, the efforts and role of law enforcement officers in overcoming crime will be more optimal, especially regarding the misuse or misappropriation of subsidized fuel oil, because the public will find it easier to know and understand the impacts of these actions which of course can harm the interests of the community. Many. Efforts made by the Directorate of Special Criminal Investigation of the Riau Islands Police in Overcoming Obstacles in the Investigation of Criminal Acts of Misuse of Subsidized Fuel Oil (BBM).

## CONCLUSION

Based on the discussion in the previous chapter, the following conclusions can be drawn:

1. Through Law Number 22 of 2001 concerning Oil and Natural Gas, it is expected to be able to implement the Regulation and supervision of the distribution of Fuel Oil to consumers. The sanctions that can be imposed on perpetrators of misuse of Subsidized Fuel will be strictly enforced as regulated in Article 55 of Law Number 22 of 2001 concerning Oil and Natural Gas, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. However, this is not the case with Article 53, the wording of which has been changed in the Job Creation Law. From the law enforcement perspective, the change in the norm of Article 53 can weaken the authority of law enforcement in the Oil and Gas sector, especially in industrial areas and border areas where illegal downstream oil and gas business activities cannot be touched by criminal law instruments as long as they do not cause impacts in the form of victims/damage to health, safety and/or the environment. In addition, legal instruments relating to the mechanism for implementing administrative sanctions as referred to in Article 23A paragraph (1) have not yet existed.
2. The effectiveness of law enforcement against the circulation of subsidized oil is carried out in accordance with the authority of law enforcement officers, in this case the police, who have attempted to take legal action against the processing of fuel oil without a permit, the transportation of fuel oil without a permit, the storage of fuel oil without a permit, the trading of fuel oil without a permit, and the misuse of transportation and/or trading of fuel oil that has been subsidized by the government.
3. The obstacles faced are internal obstacles including a) Limited Number of Personnel Number of personnel, b) Limited Operational Facilities; c) Personality or Mentality of Personnel In the practice of implementing police duties and authorities; d) Lack of Quality of Personnel To create a professional police; e) Limited Operational Funds To carry out its duties and roles as law enforcers, external obstacles include, a) lack of community participation b) lack of Legal Awareness; and finally the efforts made by the Directorate of Special Criminal Investigation of the Riau Islands Police a) Increasing community participation by conducting socialization; b) Placing Police personnel on

distribution routes and vulnerable points; c) Conducting legal counseling to the community

From this conclusion, the author can provide several suggestions, namely:

1. Sanctions that can be imposed on perpetrators of misuse of subsidized fuel will be dealt with firmly as regulated in Article 55 of Law No. 22 of 2001 concerning Oil and Natural Gas, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. However, this is not the case with Article 53, the text of which has been changed in the Job Creation Law, looking at the law enforcement side, the change in the Norm of Article 53 can weaken the authority of law enforcement in the Oil and Natural Gas sector, so it is recommended to conduct a judicial review of Article 53 of Law No. 22 of 2001 concerning Oil and Natural Gas, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law through the Constitutional Court.
2. It is expected that the police and related agencies will be more active in expanding the implementation of fuel distribution supervision from Pertamina depots to bases and the public will play a role in making complaints to the police if they find or suspect that there are or are perpetrators of irregularities in the use of subsidized fuel and provide sanctions in accordance with applicable laws so that it can have a deterrent effect on the perpetrators.
3. In eradicating the crime of misuse of subsidized fuel oil (BBM), it is recommended to make efforts to overcome internal and external obstacles. To overcome internal obstacles, the following efforts can be made: (1) Increase the number of investigator personnel, (2) Increase the facilities and infrastructure owned by investigators, (3) Provide awards and punishments for personnel, (4) Increase the ability and capacity of investigators, (5) Increase operational funds for investigators, while for external obstacles, the efforts that can be made include: (1) Increase community participation by conducting outreach, (2) Place police personnel on distribution routes and vulnerable points, (3) Provide legal counseling to the community by involving relevant stakeholders.

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