

Law Enforcement on Perpetrators of Fuel Oil and Gas Counterfeiting in Bangilan, Tuban

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Law Enforcement on Perpetrators of Fuel Oil and Gas Counterfeiting in Bangilan, Tuban

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ABSTRACT

The purpose of this research is to analyze the implementation of law enforcement of perpetrators and analyze efforts to overcome perpetrators of criminal acts of counterfeiting fuel oil and gas in Bangilan Village, Bangilan Kecamatan, Tuban. This research is included in sociological juridical research. The legal sociological approach is a science from the development of legal science and can be observed by studying social phenomena that have legal aspects in society. The results of this research indicated that the implementation of law enforcement perpetrators of criminal acts of counterfeiting fuel oil and gas in Bangilan Village, Bangilan District, Tuban, the investigator concluded that the actions committed by the suspect Soniawan prasetyo were proven to have violated Article 54 and Article 53 of the Law of the Republic of Indonesia No. 22/2001 concerning Oil and Gas, as amended by Law of the Republic of Indonesia No. 11/2020 concerning Copyright Work. The efforts of the East Java Regional Police in overcoming the criminal act of counterfeiting diesel fuel (BBM) are carried out with countermeasures in the form of pre-emptive efforts, preventive efforts and repressive efforts.

Keywords: Counterfeiting, Criminal Acts, Criminal Law Enforcement

INTRODUCTION

Based on Article 1 Paragraph (3) of 1945 Constitution of Republic Indonesia, the 4th amendment states that Indonesia is a state of law. The term "law" refers to a body of guidelines or procedures that govern daily life and can be upheld by sanctions. Crime in human life is a social symptom that will always be faced by every human being, society and even the State. It has been established that crime cannot be entirely eliminated; it can only be prevented and lessened. The more advanced crimes perpetrated are just one example of how human capabilities can have a harmful effect.¹

Citizens who disregard or knowingly engage in behavior that is prohibited by a rule of law, particularly a criminal law, will be subject to sanctions in the form of punishment. These sanctions serve to control behavior in society as well as a form of coercion in order to achieve order and prosperity by having a deterrent effect on the perpetrator. The criminal justice system in Indonesia always renders a judgement of a cohesive case that aims to achieve the system's goals. The process of investigation is to determine whether a criminal incident actually occurred is the first step in criminal justice system. The investigation process must be conducted initially by gathering data, witness statements, and necessary evidence that is measurable and related to legal interests or criminal law requirements, specifically about the criminal occurrences.² It can also be interpreted that criminal justice is the process of enforcing the criminal law.

The Preamble of the 1945 Constitution of Republic Indonesia states that the general purpose of legislation is to maintain order in society. Criminal law is one of the laws that exists to establish the society order with the intention of punishing those who violate the law or commit a crime that aims to deter others from doing the same, as well as rehabilitating the perpetrators of criminal act.³ Criminal law enforcement is part of crime prevention policy (criminal politics), with the ultimate goal for being the protection of society to achieve their prosperity. Therefore, criminal law enforcement needs to address this issue by enhancing laws through the application and implementation of criminal law and increasing the community's participation in the fight against crime. The following is the consequences of violating Law No. 22/2001 Article 53, which prohibits using subsidized fuel without authorization:

All those who:

- a) The manufacture as referred to in Article 23 without a Processing

¹ Rizki Hidayat Palantu, Lisnawaty W. Badu, and Melisa Towadi, "Criminal Policy Against The Criminal Action Of Subsidized Fuel Hooking In Bongo Zero Village," *Estudiante Law journal* 2, no. 1 (2020): 228–240.

² International Criminal Court, *Understanding the International Criminal Court* (Netherlands: International Criminal Court, 2020).

³ Fajri Matahati Muhammadin and Kay Jessica, *Recent Developments in International Criminal Law*, 1st ed. (Yogyakarta: Fakultas Hukum Universitas Gadjah Mada, 2022).

- Business License shall be punished with a maximum imprisonment of 5 (five) years and a maximum penalize of IDR. 50,000,000,000 (fifty billion rupiah).
- b) Transportation as referred to in Article 23 without a Transportation Business License shall be punished with a maximum imprisonment of 4 (four) years and a maximum penalize of IDR. 40,000,000,000 (forty billion rupiah).
 - c) The storage as referred to in Article 23 without a Storage Business License shall be punished with a maximum imprisonment of 3 (three) years and a maximum penalize of IDR. 30,000,000,000 (thirty billion rupiah).
 - d) Commerce as referred to in Article 23 without a Commerce Business License shall be punished with a maximum imprisonment of 3 (three) years and a maximum penalize of IDR. 30,000,000,000 (thirty billion rupiah).

Based on Article 54 of Law No. 22/2001 concerning Oil and Gas states that anyone who imitates or falsifies fuel oil, natural gas, and processed products as mentioned in Article 28 Paragraph (1) shall be punished with imprisonment for a maximum of 6 (six) years and a maximum penalize of IDR. 60,000,000,000, it also stipulates that anyone who uses fuel improperly shall be punished with imprisonment for a maximum of 5 years.

In Bangilan, Tuban, there was an instance of fuel oil and natural gas being imitated or falsified, as well as the processing of crude oil into products used to make diesel fuel. On Wednesday, June 15, 2022, Investigators of Unit II IV/Tipidter Ditreskrimsus Polda Jatim found the crime of Oil and Gas by every person who imitates or falsifies fuel oil and gas and processed products or every person who conduct the processing, transportation, storage and commerce without being equipped with licenses in Tuban, as referred to in Article 54 Subs Article 53 of the Law of Republic Indonesia No. 22/2001 concerning Oil and Gas as amended by Law No. 11/2020 regarding Job Creation located in Bangilan, Tuban which was conducted by Mr. Soniawan Prasetio or Wawan.

Based on the explanation of Article 54 and Article 53 of Law of Republic Indonesia No. 22/2001 concerning Oil and Gas as amended by Law No. 11/2020 regarding Job Creation, what is meant by every person who imitates or falsifies fuel oil and gas and processed products or every person who conduct processing, transportation, storage and trading without being equipped with a license in Tuban is an activity that aims to obtain individual or business entity profits by harming the interests of the general public and the state, among others:

1. Fuel oil blending
2. Fuel allocation irregularities

The management of oil and gas must be conducted as optimally as possible in order to be utilized for the greatest prosperity and welfare of the people, that the need for oil and gas in some developing nations like Indonesia is increasing.⁴ Oil and gas are natural resources controlled by the state and are vital commodity sources that play a significant role in the provision of industrial fuel, households, and other basic needs. As stated in Article 33 Paragraph (2) of 1945 Constitution of Republic Indonesia which stated that "The important production to the State and which control the livelihood of many people shall be authorized by the State" and Paragraph (3) "The land, water and wealth contained therein shall be authorized by the State and used to the greatest extent for the people prosperity."

By examining the numerous cases of subsidized fuel oil (BBM) that being transported, distributed, stored, hoarded, and sold illegally, it undoubtedly raises a number of issues, from inhibiting factors in the law enforcement process, police strategies in implement the law enforcement and the efforts to overcome obstacles in the law enforcement process against the perpetrators.

In Indonesia, the issue of law enforcement is still frequently characterized by the dissatisfaction of legal subjects from the initial stages of legislation's implementation to its ultimate stages. Since the lack of implementation of law enforcement is still a major issue in Indonesia, law enforcement primarily focuses on enforcing existing laws and regulations at the threshold of legal requirements without delve farther into the actual law.⁵

Based on the description above, the researcher is interested in conducting research related to law enforcement against perpetrators of criminal acts of fuel oil and natural gas counterfeiting. The purpose of this research is to analyze the implementation of law enforcement against perpetrators of criminal acts of fuel oil and natural gas counterfeiting in Bangilan, Tuban. In addition, to analyze efforts in handling the criminal acts of fuel oil and natural gas counterfeiting in Bangilan, Tuban.

RESEARCH METHODOLOGY

¹⁶ The research method used is juridical sociological, which is an approach to research that uses legal aspects in relation to the problem being discussed, related with reality in the field, or studying the positive law of an object of research while also observing practices that are present in the field.⁶ The legal sociological approach is a science from the development of legal science and can be observed by studying social phenomena that have legal aspects in society. Data collection

⁴ Reza Oktriananta Hadyan Putra, Yoyok Uruk Suyono, and Subekti, "Law Enforcement of Criminal Acts in the Misuse of Subsidized Solar Oil in Indonesia," *IUS POSITUM (Journal of Law Theory and Law Enforcement)* 2, no. 1 (2023), <https://journal.jfpublisher.com/index.php/jlte/article/view/266>.

⁵ M. Nurdin, "Peranan Penyidik Dalam Penegakan Hukum Terhadap Pelanggaran Tindak Pidana Lingkungan Hidup," *Jurnal Hukum Samudra Keadilan* 12, no. 2 (2017).

⁶ Ali Zainuddin, *Metode Penelitian Hukum*, Cetakan ke. (Jakarta: Sinar Grafika, 2016).

and processing procedures are conducted by literature study and field study. Data analysis is assessed qualitatively, by not using numbers but based on laws and regulations, views of experts and conclusions from the researchers.

RESULT AND DISCUSSION

Implementation of Law Enforcement on Perpetrators of Fuel Oil and Gas Counterfeiting in Bangilan, Tuban

On Wednesday, June 15, 2022 Investigators of Unit II IV/Tipidter Ditreskrim Polda Jatim found the crime of Oil and Gas that every person who imitates or falsifies fuel oil and natural gas and processed funds or every person who conduct the processing, transportation, storage and commerce without being equipped with licenses in Tuban, as referred to in Article 54 Subs Article 53 of the Law of Republic Indonesia No. 22/2001 concerning Oil and Gas as amended by Law No. 11/2020 regarding Job Creation located in Bangilan, Tuban, which was conducted by Mr. Soniawan Prasetio or Wawan.

The suspect Soniawan Prasetio has been processing crude oil into diesel fuel in the past 3 years ago, but in 2021 he stopped operating and conduct those activities after Eid al-Fitr in May 2022 until now. The crude oil material processed into diesel fuel comes from old well oil extraction activities in Wonocolo, Bojonegoro. It can convert 1 ton of crude oil into 800 liters of diesel fuel in a single day. The suspect Soniawan Prasetio produces processed diesel fuel by cooking crude oil and sealing the container firmly to prevent evaporation. Since May 2023, it has only been able to sell processed diesel fuel in quantities of less than 9000 liters or 9 tons, and it costs IDR 6,800 per liter. In the activity of processing crude oil into diesel fuel conducted by suspect Soniawan Prasetio, it is suspected that it is not in accordance with the quality levels set by the government and is not equipped with a license from the competent authority. Therefore, the perpetrator of counterfeiting fuel oil and natural gas in Bangilan, Tuban with the suspect Soniawan Prasetio can be charged with Article 54 and Article 53 of Law No. 22/2001 concerning Oil and Gas as amended by Law No. 11/2020 regarding Job Creation shall be sentenced to a maximum imprisonment of 6 (six) years and a maximum penalize of IDR. 60,000,000,000 (sixty billion rupiah) which states any person who imitates or falsifies fuel oil and natural gas and processed products.⁷ While, Article 54 of Law No. 22/2001 concerning Oil and Gas as amended by Law No. 11/2020 regarding Job Creation, the elements are:

- a. Any individual
- b. The person who imitates or falsifies
- c. Refined fuel oil and natural gas
- d. It does not meet the quality standards set by the government

⁷ Hayriye Gonullu et al., "The Analysis of the Cases of Aspired Fuel Oil and Gasoline through Siphonage Method," *Journal of the Pakistan Medical Association* 63, no. 3 (2013).

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The implementation of law enforcement for the perpetrators of counterfeiting fuel oil and natural gas in Bangilan, Tuban with the facts, discussion of case analysis and juridical analysis which are very supportive and mutually reinforcing between the witnesses statement, expert statement, the evidence and suspect statement, the investigator concluded that the actions committed by the suspect Soniawan Prasetyo have violated Article 54 and Article 53 of Law Republic Indonesia No. 22/2001 concerning Oil and Gas, as amended by the Law of Republic Indonesia No. 11/2020 regarding job creation.

The Efforts to Counteract the Perpetrators of Counterfeiting Oil and Gas Fuel in Bangilan, Tuban

The efforts to counteract the crime of counterfeiting diesel fuel oil and gas (BBM) of mixing between diesel fuels in Bangilan, Tuban can be implemented using criminal law policies or countermeasures using penal and non-penal efforts. Penal endeavors or penal legal policies are a science with a practical objective that ultimately aims to improve the formulation of favorable legal rules and to provide guidance to both governance and executors of court orders. In criminal law policy or punitive efforts, the sanctions are imposed to achieve justice and have effectiveness, which means that by applying punishment, the perpetrator will feel deterred and will not repeat the act. Penal effort refers to the pursuit or improvement of a criminal legislation. According to A Mulder, the goal of the criminal law policy (penal endeavor) is divided into three kind such following below:

- a. The existing criminal provisions need to be amended or updated.
- b. The attempt to prevent a criminal offense from occurring.
- c. How crimes should be investigated, prosecuted, tried, and executed.

Non-penal means are actions taken to stop, restrict, or dissuade criminal activity before it happens.⁸ Due to the existence of social problems and conditions that are conducive factors causing crime, the attempt in handling the crime of falsifying diesel fuel in mixing between diesel fuel oil in Bangilan, Tuban that take the penal route have limitations and must be supported by non-penal efforts through social policy, which is essentially a policy or rational effort.

The emphasis of non-punitive measures is on all actions taken to create a social environment free of criminogenic elements in society. This means that society with all its potential must be used as an antidote to crime, and non-penal efforts must be remained explored, utilized and developed to compensate for the limitations of penal means.⁹

The major objective is to deal with conditions that encourage the incidence of crime, as efforts to prevent crime through non-punitive ways that more

⁸ Daniel S. Nagin, *Deterrence in the Twenty-First Century* (Chicago: The University of Chicago Press, 2013).

⁹ Arif Rohman, "Pola Penjatuhan Sanksi Terhadap Pelaku Tindak Pidana Bidang Minyak Dan Gas Bumi Di Kalimantan Utara," *Jurnal IUS Kajian Hukum dan Keadilan* 8, no. 2 (2020).

preventive measures for crime to occur. These favorable conditions, among others, are focused on issues or societal situations that might either directly or indirectly encourage the criminal activity, particularly the crime of falsifying diesel fuel in Bangilan, Tuban. The integral crime prevention strategies require that society, in all of its potential as a component of criminal politics. As a result, it is essential to support and improve the effectiveness of extralegal or informal system for crime prevention strategies. This includes collaborating with various related parties and institutions in the society.

Since the environment and the tools used to monitor it have a strong influence on crime, it is crucial to examine these factors in order to understand how they contribute to the emergence of increasingly sophisticated and pervasive crime trends. Among others, this influence can be seen in the rise in both quantity and quality of crime, as well as in the perpetrators, victims, time, place, and its mode. These elements will enable the police to conduct special operations to overcome them. Consequently, there are three approaches in prevent the criminal act, such as:

a. Pre-Emptive Effort

Preventative measures are a set of actions taken to minimize and eventually get rid of criminogenic elements. This activity is provided in the form of information and counseling by police officers to the community about *kamtibmas* (community security and order) messages, called:

- 1) Providing information to the public or entrepreneurs, retailers of oil agents to not imitate or falsify Solar Fuel Oil and Gas (BBM) in the form of mixing between diesel type oil in hoarding, copying or smuggling.
- 2) Organizing cooperation with oil entrepreneurs or those who are members of Association of oil entrepreneurs such Iswana Migas, agents and retailers through counseling about the consequences, sanctions from criminal act of falsification of diesel fuel in mixing between diesel oil.
- 3) Empowering and increasing the role of *Babinkamtibmas* (community police officer) as an effort to minimize the criminal act. More specifically, to approach the social method with related parties or elements in tackling the crime of falsification of Solar Fuel Oil and Gas (BBM) in the form of mixing between diesel oil types, especially in the jurisdiction of East Java Regional Police.

The provision of training and briefings to law enforcement officials in handling cases of falsification of diesel fuel in the form of mixing between diesel oil that has been implemented, as well as to the community, but these activities are only conducted only before the price increase or when there is a scarcity of fuel oil in the market. This indicates

that such initiatives are ineffective and must be made more successful. It is also evident that community involvement in crime prevention activities is required.

b. Preventive Effort

Preventive efforts are actions aimed in preventing the occurrence of criminal acts. The form of activities implemented by East Java Regional Police in tackling the crime of falsification of fuel oil and natural gas (BBM) in the form of mixing between diesel oil in Bangilan, Tuban such following below:

- 1) Supervise and monitor the distribution of fuel oil (BBM) to gas stations managers, agents, and retailers.
- 2) Inventorying areas prone to fuel misused.
- 3) Conduct routine patrols and reconnaissance, especially during the night hours that are usually used by the perpetrators in conducting their actions.
- 4) Backing up the Regional Unit (Satwil) by placing members at points prone to misuse of diesel fuel.

c. Repressive Effort

Repressive efforts are a series of actions taken by the police, particularly the East Java Regional Police, to prosecute criminals and reveal crimes that have already occurred based on information provided to the police. This form of activity is a law enforcement effort in accordance with the duties and authorities possessed by the police. Additionally, it has made a number of strides and attempts to prevent the crime of falsifying Solar Fuel Oil and Gas (BBM) in the form of mixing between diesel oil. It implemented through the police, local government, gas station managers, retailers to jointly supervise and control the distribution of fuel to the community.

CONCLUSION

The implementation of law enforcement for the perpetrators of the crime of counterfeiting fuel oil and gas in Bangilan, Tuban with supportive facts, discussion of case analysis and juridical analysis and mutually reinforcing between the witnesses statement, expert statement, the evidence seized and the suspect confession, the investigator concluded that the actions committed by the suspect Soniawan prasetio were proven to have violated Article 54 and Article 53 of the Law of Republic Indonesia No. 22/2001 concerning Oil and Gas, as amended by the Law of Republic Indonesia No. 11/2020 regarding the Job Creation. East Java Police's efforts in preventing the crime of counterfeiting diesel fuel oil (BBM) are implemented with the countermeasures in the form such described, such as (1) Pre-emptive efforts, which are a series of activities conducted to counteract and

eliminate criminogenic factors as soon as possible and increasing the community vigilance; (2) Preventive efforts, is the actions to directly prevent the occurrence of diesel fuel counterfeiting; and (3) Repressive efforts, which are a collection of enforcement measures intended to make public information about previously committed crimes.

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