

ANALYSIS OF THE APPLICATION OF LAW NO. 11 OF 2020 CONCERNING JOB CREATION ON CRIMINOLOGY OF SUBSIDIZED FUEL OIL SELLERS IN DEDAI DISTRICT, SINTANG REGENCY

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ABSTRACT

This study aims to analyze what factors cause the perpetrators of the sale of subsidized fuel oil (BBM) not to supply or distribute it on target, and to analyze the conformity of Law No. 11 of 2020 concerning copyright work on the criminology of sellers of subsidized fuel oil, and find out how efforts or actions that can be taken by law enforcement against sellers of subsidized fuel oil that are not on target. This study uses empirical legal research in which a legal research method functions to be able to see law in a real sense by examining how law works in a community environment. The results of this study indicate that the factors behind the actions of the seller of subsidized fuel oil in Dedai District, Sintang Regency, namely the implementation of the sale of subsidized fuel oil occurred inaccuracy due to a game from the gas station by putting forward a factor that can be taken, namely demand factors, practical factors, and the profit factor so that these three factors can influence the existence of inaccuracies in the distribution of subsidized fuel oil. Inconsistency in the application of Law No. 11 of 2020 concerning copyright work on the crime of selling subsidized fuel oil is a phenomenon that has not been resolved by law enforcement in Dedai sub-district, Sintang Regency.

Keywords: Law, Criminology and, Subsidized Fuel Oil

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INTRODUCTION

The government continues to strive to improve the welfare of the Indonesian people, the process of Indonesia's economic development has increased since a few years ago so that public welfare has become an important thing to discuss in carrying out the government movement. Improving community welfare is the essence of national development (Erlina, 2014). The main objective of the series of national development is not only directed at physical development but also seeks to improve the level of community welfare. Changes desired by all levels of society after improving the level of welfare of the community include the fulfillment of people's living needs, ease of obtaining services, ease of access to information, community participation in the development process and poverty alleviation efforts.

Efforts that can be made for the welfare of the community are to carry out programs that are able to provide convenience, accuracy, and balance of daily needs or interests in the future. One of the efforts made to meet the needs of the community is by conducting subsidy programs for Fuel Oil, Electricity, Houses, Fertilizers, and LPG Gas (Fuhaid, 2011) (Rahmadani, 2022) (Soekanto, 2006) (Soekanto, 2004). With subsidies, it can encourage the economy and sufficiency for many people in striving for adequate clothing, food, and shelter.

Subsidies in accordance with KBBi mean financial assistance and so on to foundations, associations, and so on which are usually from the government. Subsidies are useful for reducing the burden on society and are often considered a public interest goal. Control of

subsidized fuel is mandated by Law No. 22 of 2011 concerning the State Budget for Fiscal Year 2012. Based on Article 7 Paragraph (4) of the Law, budget control of certain types of fuel subsidies and liquefied petroleum gas (LPG) cylinders of 3 kg in fiscal year 2012 is carried out through more targeted allocation of subsidized fuel and subsidized fuel control policies (NIM, n.d.). This was then confirmed in the explanation of Paragraph (4) point 1 that the allocation of subsidized fuel on target was carried out through limiting the consumption of premium types of fuel for private four-wheeled vehicles in the Java - Bali region since April 1, 2012. To support this policy, the government will revise Presidential Regulation (Perpers) No. 55/2005, especially Article 2 Paragraphs (3) and (4) which states that all types of land, river, lake, and crossing transportation vehicles are entitled to consume subsidized fuel.

The distribution of subsidized fuel oil is often used by some traders who want to get big profits through supplying to remote areas that are not actually the area to be addressed or distributed but moved by distributing them back to small traders in the area. Gas Station or can be called a Public Fueling Station, one of the business entities that has the authority to distribute Fuel Oil to end users in the distribution area in accordance with the Regulation of the Minister of Energy and Mineral Resources of the Republic of Indonesia Number 13 of 2018 concerning Fuel Oil, Fuel Gas and Liquefied Petroleum Gas Distribution Activities (Tjiptono, 2014). In addition to gas stations, there are also other distributors such as subsidized fuel distributors in remote areas (Simatupang, 2017). (Christian, 2014)

However, in this case, the deviation assisted by the gas station so that subsidized Fuel Oil can be distributed or moved to remote areas that need it more, but it is not right on target that should be poor people in need, but the upper middle class people also use subsidized Fuel Oil, causing scarcity of Fuel Oil in certain areas. Many parties are looking for profits in this action, both the owners of gas stations, and other small traders.

The distribution of subsidized Fuel Oil greatly affects the survival of the lower middle class if the distribution is not in accordance with the standards, it can cause scarcity of supply and abuse of distribution that is actually intended for poor people but sold to the people who can afford it and can cause criminal acts that will occur (SUBSIDIZED & TAJUDDIN, n.d.). At Sintang City Gas Station, subsidized fuel oil is very difficult to obtain, even it can only fill other types of fuel, but for the Dedai District area, it is not so difficult to get even without restrictions. On the other hand, the community's consumption needs for subsidized Fuel Oil in Dedai District are very high because the community uses a lot for gold mining purposes. The distribution of subsidized fuel must be felt by the poor in accordance with the appropriateness of the subsidy program from the government, there are 4 distributors in Dedai District, namely in Gandis Hulu Village, Gandis Hilir, Sungai Mali Village, and Kayan Village all distributed back to shops or directly to their communities.

Nonconformity or misappropriation can be done by all sellers of subsidized Fuel Oil because there is no actual and proper supervision (Supatmi & Sari, 2007) (Arikunto, 2006), inaccuracy is also caused by shops that sell to gold miners who should not be those who use and to the able community who also use subsidized fuel oil but in this case the rules can be tightened back which jobs and what communities can use subsidized Fuel Oil. Gas stations, distributors and agents are entrepreneurs who seek profit, make sales in any way in order to spend the stock of Fuel Oil available to them but these actions can harm people in need, while the purpose of the state is to carry out state goals by prospering the people of Indonesia in

accordance with Article 28H paragraphs 1 & 2 of the Constitution of the Republic of Indonesia Year 1945.

It is clear that the right for citizens to be able to feel welfare, convenience and special treatment of opportunities and benefits so that appropriateness is a guarantee of the state in carrying out a planned program but there are still deviations in terms of the subsidized Fuel Oil distribution program. Such deviations can be sentenced to imprisonment in accordance with Article 40 number 9 of the Job Creation Law which amends Article 55 of Law No. 22 of 2001 concerning Oil and Gas which reads:

"Any person who misuses the Transportation and/or Commerce of Fuel Oil, fuel gas, and/or liquefied petroleum gas subsidized by the Government shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 60,000,000,000 (sixty billion rupiah)".

It is very clear that the penalties that can be imposed if there are irregularities in distribution and sale can be given severe sanctions to the perpetrators who play. In the implementation of business or sales, many things can be addressed such as inaccuracy on target, striking price discrepancies, and scarcity which makes it difficult for people to meet their basic needs both in carrying out agricultural, fishery, and household work so that this dampak if left unchecked can cause instability in use and the economy of the downward class can decline.

In Dedai sub-district on March 21, 2012, Sintang police received a report from the control operation team in anticipation of the increase in fuel prices in the jurisdiction of the police found 4 drums containing kerosene, each of which contained kerosene with a volume of 220 liters with a total of 880 liters stored behind his own house without being equipped with documents and other certificates from the relevant agencies so that the defendant was sentenced with Article 53 letter C of Law of the Republic of Indonesia Number 22 of 2001 concerning Oil and Gas (170/Pid.Sus/2012/PN.Stg) (Baskoro, 2019).

On Wednesday, February 24, 2016, Sambas Regional Police received information from the public that there had been misuse of transportation and trade arrangements for subsidized fuel oil. Sambas police made an arrest at the defendant's house in Siatung RT Hamlet. 008/RW. 004 Parit Baru Village, Selakau District, Sambas Regency, in this case managed to secure 1 blue plastic drum and 19 jerry cans containing approximately 875 liters of subsidized Fuel Oil (Gumelar, 2023). The defendant bought it using 1 unit of brown Cevrolet brand Pick Up car in 1982 which uses a stealth tank so that the capacity of the car with diesel oil capacity can reach 150 liters which will be sold to fishermen in the Selakau area with a profit of 850 rupiah per liter (Reg.Perk No.: PDM-36 / SBS / 05/2016).

It is clear that there are still many irregularities that occur in the distribution and distribution of Subsidized Fuel Oil so that there is a scarcity in some areas that have actually been provided in accordance with the capacity of the population to be unfulfilled. With the mode of operation, namely subsidized fuel oil refueling with jerry cans without a letter of recommendation, filling is preferred to the miner because the amount purchased by the miner is greater and misappropriation of recording/administration, and gas stations distribute subsidized fuel oil to the public only 6 cubic per 1 (one) truck. So, the loss experienced by the community is that there is a lot of time loss for truck drivers to buy, causing it to take longer for them to work. And also if subsidized fuel oil runs out, people are forced to buy Dexlite type fuel which is in dispute up to approximately Rp.3,000, - while the price of subsidized fuel oil

in Dedai District has risen to Rp.12,000,-. It is so important to supervise the distribution and distribution of subsidized fuel oil in order to achieve stable economic equity. Through proper supervision, the objectives of the subsidy program will be achieved (Sinurat et al., 2022).

Dedai District is one of the sub-districts in the Sintang Regency area, precisely directly adjacent to the Sintang sub-district area as the district center, Kayan Hilir, Kelam Permai, Sei (Statistics, 2018). Belian. The social condition of the people of Dedai District is shown by the low quality of human resources as evidenced by the lack of awareness about the importance of taking higher education which affects the level of community welfare. This can be shown by the large number of people who make a living as rubber farmers, farm laborers, miners, and trade in the market.

With a lack of knowledge from outside and only focusing on illegal mining carried out by the surrounding community, also looking for facilities to mine so that people who work by mining purchase subsidized Fuel Oil through sellers or small traders around by taking it first and then can be paid per week. The mining needs are used for large traders or gas station owners to move their willingness to the Dedai sub-district area which requires a lot of subsidized Fuel Oil with the needs of one miner, which is around 25 liters per day.

This issue is around 40% of the total news about the Ministry of Transportation or related to the functions and duties of the Ministry of Transportation where the plan to limit the use of subsidized fuel is raised by the national mass media, where most mass media still contain polemics about whether or not the implementation of the policy of limiting the use of subsidized fuel. The mass media highlighted more about the weaknesses or obstacles that might be faced by the government in implementing a policy limiting the use of subsidized fuel with the option of forcing motorized vehicles to use gas and Pertamina fuel. Of a number of subsidized fuel control options prepared by the government, there are two options that are most likely to be applied. First, limiting the consumption of premium subsidized fuel in Java-Bali gradually starting April 1, 2012. Second, increase the price of premium subsidized fuel gradually. These options will be followed by a motor vehicle fuel conversion program from fuel to fuel gas (BBG) in the form of compressed natural gas (CNG) and liquefied gas for vehicle (LGV) or Vi-Gas.

METHOD

This type of research using empirical law consists of two parts, namely research on legal identification (unwritten) and research on legal effectiveness. This research is descriptive analysis, namely by describing the situation as it is that which has occurred at the time the research was carried out or by revealing all the problems based on real facts (Dimiyati & Wardiono, 2004).

Data and data sources of this research literature (Library Research) and Field Research (Field Research) which are carried out directly to the field to obtain and collect data and observe the problems in this study are what are the main problems and purchasing problems (Nazir, 2003) (Singarimbun, 1995). The author uses the interview method and identifies directly, namely by interviewing and questioning directly with respondents, namely with traders and buyers of subsidized fuel oil as well as gas station owners. Indirect Communication Techniques by making observations or observations can be classified into two, namely observation through participation and non-participation. The observation method carried out by researchers by visiting the location, observing to get the information needed, and acting as a visitor and buyer.

The object of observation in the research carried out was shops around mines in the Dedai District, Sintang Regency (Moleong & Edisi, 2004). In using quantitative analysis to produce conclusions, the author here takes field data in the form of primary data and secondary data to complement the author's research and materials needed in research such as books, documents and other references and also goes directly into the field to collect data to obtain and collect data and conduct interviews with related parties.

RESULTS AND DISCUSSION

The application of Criminal Law in accordance with the rules of Law Number 22 of 2001 concerning Oil and Gas which has been amended in Law Number 11 of 2020 concerning Job Creation has regulated the criminal penalties imposed on perpetrators but there is still estrangement and cooperation in the treatment and action of distribution to other regions even though it is not the area that is intended (Chairul Huda, 2015). The existence of cooperation here is related between gas stations and collectors or sellers so that there is freedom and continuity, as well as the absence of coordination with the security so that there is a lot of leeway related to the distribution.

Basically, the formation of Fuel Oil comes from petroleum processing. This petroleum based on Law Number 22 of 2001 concerning Oil and Gas is the result of natural processes in the form of hydrocarbons under conditions of atmospheric pressure and temperature in the form of liquid or solid phases, including asphalt, mineral wax or ozokerit, and bitumen obtained from mining, but excluding coal or other hydrocarbon deposits in solid form obtained from activities that are not related to Oil and Gas business activities.

Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution affirm that the branches of production that are important to the State and control the livelihoods of the people are controlled by the State. Similarly, the water earth contained therein is controlled by the State and used for the greatest prosperity and welfare of the people. Given that fuel whose control is controlled by the State is a strategic natural resource and is a vital commodity that plays an important role in the provision of industrial raw materials, meeting domestic energy needs, and earning important State foreign exchange, its management is carried out as optimally as possible so that it can be utilized as much as possible for the prosperity and welfare of the people.

Provisions regarding the misuse of transportation and commerce are also regulated in Article 40 number 9 of the Job Creation Law which amends Article 55 of Law Number 22 of 2001: "Any person who uses the transportation and/or trade of government-subsidized fuel oil shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 60,000,000,000.00 (sixty billion rupiah)."

In one of the gas bases in Gandis Village, Dedai District, in the study, the author saw for himself the inaccuracy of distribution that occurred because there were several people who should not be distributed but could make purchases, here as evidence of supervision. In terms of prices are quite diverse and remain in accordance with the rules. Commercial activities in the field of distributing Fuel Oil do not necessarily become a form of criminal offense provided that the activity has permission from the competent authority in this case, namely the Government, the Commerce referred to in this case is: "The work of buying goods from one

place or at one time and selling those goods in another place or at the following time with the intention of obtaining a profit".

This business activity or business is also inseparable from upstream business activities and downstream business activities because one with another has a relationship, the relationship in this case is that business business is also included in the category of business activities engaged in company equipment, while the definition of upstream business activities downstream business activities is in accordance with the provisions of the laws and regulations Article 40 number 9 of the Job Creation Law which amends Article 1 of the Law Number 22 of 2001 concerning Oil and Gas is an Upstream Business Activity in which "A business activity that is core or relies on exploration and exploitation business activities". Then Downstream Business Activities where "A business activity that is core or relies on processing, transportation, storage and/or commercial business activities".

There is a misdirection that occurs due to internal and external factors. Demand Factor (Internal Factor) that there are many solar users and the average Dompeng and Fuso machines use Solar, then Solar subsidy users will be more. The large number of requests from gold miners in Dedai District makes gas station owners make deliveries to Dedai District which uses more diesel. Practical Factors (External Factors) seen in terms of the work of the community in the Dedai District area which is mostly mining gold which is busy with mining work, if miners purchase subsidized Fuel Oil or Diesel directly to gas stations, it will take time and will definitely be constrained every working day seeing the condition of road infrastructure that is so severe and must take a lot of time as well. With the existence of gas stations that provide direct delivery to the villages of Dedai District of each place so that it can facilitate the work of gold miners. But in this case the distribution of diesel is not so appropriate to be used which should be used by households, fishermen, agriculture, and also plantations but there it is used for mining miners should be able to use Dexlite which will protect the environment.

Profit Factor (Internal Factor) in every trader and businessman by seeking large profits on the products they sell, but in this case there will be many deviations that occur due to seeking profits in making transactions for sellers and buyers between those who have goods and those who need goods. With the existence of gold miners who certainly need more diesel and make sure they can use up a lot of existing diesel but in that case it causes deviations. In each region, solar needs have been recorded from the data of people's lives, but reused the large amount of diesel sold to gold miners. In this case, it is necessary to cooperate with several related agencies in order to carry out these transactions, through various agencies of the entrepreneur or it can be called the owner of the relevant gas station to commit fraud in order to pass the subsidized fuel oil. With the presence of many gold miners so that it can spend existing Solar and quickly get a big profit.

CONCLUSION

The factors that cause the action of selling LPG Gas and subsidized Fuel Oil that are not right on target are, among others, demand factors, practical factors, and profit factors so that these three factors can affect the inaccuracy in the distribution of subsidized Fuel Oil and 3 Kg LPG Gas. The distance traveled by the gas station supplying fuel is through water and takes more than 4 (four) hours because it is against the flow of water. Inaccuracy of usability is not a guideline through business people who always want to be fast and make a profit, there are

also many people who always want to do homework very easily, especially the influence of the road that is so severe that everything practical can save time.

As a result of the inaccurate target of distribution or use of 3 Kg LPG Gas and subsidized Fuel Oil, namely the scarcity felt by the community, especially those in need, namely the poor, government regulations on assistance by means of subsidies intended for the lower middle class but in the field many upper middle class groups resulting in people who should use cannot feel 3 Kg LPG Gas Similarly, subsidized fuel oil distributed is not right on target that should be distributed to households, micro enterprises, agricultural businesses, fisheries, transportation, and public services in accordance with Presidential Regulation of the Republic of Indonesia number 69 of 2021 amending from Presidential Regulation of the Republic of Indonesia number 191 of 2014 concerning the Supply, Distribution, and Retail Selling Price of Fuel Oil but is used for the gold mining industry which is also unlicensed also makes an impact that is felt scarcity that occurs because gas stations think about profits alone but do not think about the appropriateness for small communities. This causes discrepancies in the application of Law No. 11 Thun 2020 concerning job creation for the crime of subdi fuel sellers to become a phenomenon that has not been resolved by law enforcement in Dedai sub-district, Sintang Regency.

REFERENCES

- Arikunto, S. (2006). *Prosedur penelitian suatu pendekatan praktek Edisi V. Jakarta: Rineka Cipta, 69.*
- Baskoro, G. A. (2019). *Aspek Hukum Kenaikan Harga Gas Lpg 3kg Yang Dilakukan Oleh Pangkalan Terhadap Konsumen (Studi di Pangkalan Gas Misya).*
- BERSUBSIDI, B. M., & TAJUDDIN, S. R. I. W. (n.d.). *TINJAUAN YURIDIS TERHADAP TINDAK PIDANA PENYALAHGUNAAN PENGANGKUTAN DAN/ATAU NIAGA BAHAN.*
- Chairul Huda, S. H. (2015). *Dari 'Tiada Pidana Tanpa Kesalahan', Menuju 'Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan'.* Kencana.
- Dimiyati, K., & Wardiono, K. (2004). *Metode Penelitian Hukum. Surakarta: Fakultas Hukum Universitas Muhammadiyah Surakarta.*
- Erlina, E. (2014). *Analisa Kriminologi terhadap kekerasan dalam kejahatan. Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan, 3(2), 217–228.*
- Fuhaid, N. (2011). *Pengaruh medan magnet terhadap konsumsi bahan bakar dan kinerja motor bakar bensin jenis Daihatsu Hijet 1000. Proton, 3(2).*
- Gumelar, C. (2023). *Meningkatkan Upaya Promosi Desa Wirun Melalui Pembuatan Buku Profil Desa Wisata dan Budaya.*
- Kristiani, M. D. (2014). *Kejahatan kekerasan seksual (perkosaan) ditinjau dari perspektif kriminologi. Jurnal Magister Hukum Udayana, 3(3), 44124.*
- Moleong, L. J., & Edisi, P. (2004). *Metodelogi penelitian. Bandung: Penerbit Remaja Rosdakarya, 3(01).*
- Nazir, M. (2003). *Metode Penelitian Cetakan Kelima. Jakarta: Ghalia Indonesia.*
- NIM, U. U. (n.d.). *TINJAUAN KRIMINOLOGI TERHADAP TINDAKAN PENJUAL GAS ELPIJI DAN BAHAN BAKAR MINYAK BERSUBSIDI DI KECAMATAN DEDAI KABUPATEN SINTANG. Jurnal Fatwa Hukum, 5(3).*
- Rahmadani, N. (2022). *POTENSI PENGELOLAAN LIMBAH INDUSTRI TAHU DALAM MENINGKATKAN KESEJAHTERAAN MASYARAKAT DESA TANARIGELLA KECAMATAN BUA KABUPATEN LUWU. INSTITUT AGAMA ISLAM NEGERI*

PALOPO.

Simatupang, N. (2017). *Kriminologi: suatu pengantar*. Pustaka Prima.

Singarimbun, M. (1995). *Metode penelitian survai*.

Sinurat, A. A., Hendriyani, C., & Damayanti, F. (2022). MyPertamina Application To Increase Consumer Engagement. *The International Journal of Business Review (The Jobs Review)*, 5(1), 65–74.

Soekanto, S. (2004). *Faktor-faktor yang mempengaruhi penegakan hukum*.

Soekanto, S. (2006). Pengantar penelitian hukum. *(No Title)*.

Statistik, B. P. (2018). Kabupaten Sintang dalam angka. *Sintang: BPS*.

Supatmi, M. S., & Sari, H. P. (2007). *Dasar-dasar teori sosial kejahatan*. Jakarta: PTIK Press.

Tjiptono, F. (2014). *Pemasaran Jasa Yogyakarta: Penerbit Andi*.