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The Role of the Pohuwato Police in Combating Criminal Acts of Transporting Subsidized Fuel Oil

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ABSTRACT

This study aims to analyze the role of the Pohuwato Resort Police in combating the crime of transporting subsidized fuel oil and identify factors that hinder law enforcement against the misuse of subsidized fuel oil in Pohuwato Regency. The study uses an empirical legal method with a legislative approach and a sociological approach. Primary data were obtained through interviews and observations within the jurisdiction of the Pohuwato Resort Police, while secondary data were obtained from laws and regulations, criminal law literature, journals, police documents, and related news. The results of the study indicate that the misuse of subsidized fuel oil occurs through various modes, including repeat purchases at gas stations, the use of modified vehicle tanks, the use of certain vehicles to store large amounts of fuel, the misuse of business recommendations, the transportation of diesel fuel by trucks, and the retail sale of Pertalite and diesel above the official price. Data from the Pohuwato Police Tipidter Unit shows one report in 2021, seven in 2022, and three in 2023. The police's role is carried out through promotional, preventive, and repressive efforts, including legal counseling, empowering Bhabinkamtibmas (Community Police Officers), distribution supervision, patrols, personnel deployment at vulnerable points, inspections, confiscations, arrests, inquiries, and prosecutions. Key obstacles include limited law enforcement, low public participation, a culture of bribery, misuse of recommendations, lack of transparency at gas stations, the use of modified tanks, and limited expertise in the region. This article emphasizes the need to strengthen coordination between the police, local governments, gas stations, the Oil and Gas Regulatory Agency (BPH Migas), and the community to ensure more targeted distribution of subsidized fuel and effective law enforcement.

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1. Introduction

Fuel oil is a strategic commodity that controls the livelihoods of many people. Within the constitutional framework, the control of natural resources by the state is directed towards the greatest possible prosperity of the people, as affirmed in Article 33 of the 1945 Constitution of the Republic of Indonesia [1]. Therefore, the fuel subsidy policy can be understood not only as an economic policy, but also as an instrument of social justice so that the entitled community can obtain access to energy at affordable prices.

Under Indonesian law, oil and gas management is regulated by Law Number 22 of 2001 concerning Oil and Gas. This law divides oil and gas business activities into upstream and downstream. Downstream activities include processing, transportation, storage, and trade. [2] Therefore, fuel transportation is not simply a technical activity of moving goods, but rather a legal activity that requires business permits, supervision, and compliance with distribution regulations.

Downstream oil and gas activities are also detailed in Government Regulation Number 36 of 2004 concerning Downstream Oil and Gas Business Activities. This regulation emphasizes that downstream business activities can only be carried out by business entities that have obtained business permits from the government and are implemented through healthy, fair, and transparent competition mechanisms [3]. This regulation aims to ensure the availability, distribution, and utilization of fuel in a targeted manner, especially for fuel that receives subsidies or government assignments.

Normatively, the misuse of transportation and/or trade in subsidized fuel has been prohibited and is subject to criminal penalties. Article 53 of Law Number 22 of 2001 regulates sanctions against processing, transportation, storage, and trade activities without a business license. Meanwhile, Article 55 stipulates that anyone who misuses the transportation and/or trade in government-subsidized fuel oil can be subject to criminal penalties [2]. After changes through the job creation regime, these criminal norms still emphasize the criminal threat for the misuse of transportation and trade in subsidized fuel or fuel whose distribution is assigned by the government [4].

However, in practice, misuse of subsidized fuel still occurs in various regions, including Pohuwato Regency. The price difference between subsidized and non-subsidized fuel creates profit opportunities for perpetrators who divert fuel from its original intended use. Putra and colleagues explain that inaccurate distribution, regulatory loopholes, and weak supervision are factors that open up space for misuse of subsidized fuel [5]. Arsyad also emphasized that criminal policies against misuse of subsidized fuel must be implemented in an integrated manner through law enforcement, prevention, and distribution supervision [6].

The phenomenon in Pohuwato Regency shows several forms of irregularities, such as repeated purchases at gas stations, diversion of fuel from vehicle tanks to jerry cans or gallons, use of modified vehicle tanks, misuse of business recommendations, and retail sales of fuel at prices exceeding the official price. The thesis that is the basis of this article also notes cases of misuse of subsidized fuel that have been processed, including cases of transportation and trade of subsidized diesel by two suspects, smuggling of premium from Central Sulawesi to Pohuwato, and cases of couriers transporting subsidized fuel at Randangan gas stations [7].

Data from the Pohuwato Police's Special Crimes Unit shows that reports of subsidized fuel misuse are not incidental. In 2021, there was one report, seven in 2022, and three in 2023. [7] This data demonstrates that the crime of subsidized fuel misuse is a recurring problem that requires serious attention from law enforcement. The increase in reports in 2022 also demonstrates that the mode of misuse can evolve based on market demand and weak field supervision.

In the context of law enforcement, the Pohuwato Police Department plays a crucial role as they are at the forefront of prevention, supervision, enforcement, and investigation. The police are not only tasked with prosecuting perpetrators after an incident occurs, but also with taking promotional and preventive measures to prevent abuse. The police's role as maintainers of public security and order, law enforcers, protectors, guardians, and public servants provides the basis for the police to oversee the distribution of subsidized fuel [8].

However, there is a gap between legal norms and enforcement practices in the field. In terms of das sollen, oil and gas regulations prohibit and sanction unauthorized fuel transportation and trading. However, in terms of das sein, repeat purchases, tank modifications, retail sales, and misuse of recommendations still occur. This gap demonstrates that the existence of norms does not automatically guarantee effective law enforcement without the support of law enforcement capacity, community cooperation, gas station transparency, and a robust distribution monitoring system.

Previous research generally highlights the misuse of subsidized fuel from the perspective of criminal policy, the normative aspects of subsidized fuel sales, or the regulation of oil and gas business activities [5], [6]. This article is novel because it places the issue of misuse of subsidized fuel transportation in the empirical context of the Pohuwato Police jurisdiction, emphasizing the role of the police, local modus operandi, and factors hindering law enforcement. Thus, this article not only discusses oil and gas criminal norms, but also assesses how these norms work in law enforcement practices in the region.

Based on this description, the problem formulation in this article is:

1. How are the efforts of the Pohuwato Resort Police in dealing with criminal acts of misuse of subsidized fuel transportation in Pohuwato Regency?
2. What factors hinder the efforts of the Pohuwato Police in dealing with the crime of misuse of subsidized fuel transportation in Pohuwato Regency?

Based on the problem formulation above, the purpose of this study is to analyze police efforts in combating these crimes and identify inhibiting factors. Theoretically, this article contributes to the development of economic criminal law and oil and gas law studies. Practically, this article can serve as evaluation material for the police, local governments, gas stations, and the public in strengthening supervision of subsidized fuel distribution.

2. Research Methods

This study employs empirical legal research. Empirical legal research was chosen because the focus of the study lies not only in written legal norms but also in the operation of the law in enforcement practices within the jurisdiction of the Pohuwato Police. This study combines a review of laws and regulations with field data on police efforts and inhibiting factors in

combating the misuse of subsidized fuel.

The approaches used are a legislative approach and a sociological approach. The legislative approach is used to examine Law Number 22 of 2001 concerning Oil and Gas, Government Regulation Number 36 of 2004 concerning Downstream Oil and Gas Business Activities, the Police Law, and other relevant criminal provisions. The sociological approach is used to examine the practice of subsidized fuel abuse, the perpetrators' methods, police responses, and social barriers encountered in society.

The research data sources consist of primary and secondary data. Primary data were obtained through interviews and observations within the jurisdiction of the Pohuwato Police, specifically related to the handling of subsidized fuel misuse cases. The sources in this thesis research include elements of the Pohuwato Police, including the Head of Criminal Investigation Unit, the Head of Specific Crimes Unit, and members of the Specific Crimes Unit. Secondary data were obtained from laws and regulations, criminal law books, scientific journals, police documents, and other materials related to the transportation, trade, and misuse of subsidized fuel.

Data collection techniques were conducted through documentation studies and interviews. Documentation studies were used to examine police reports, legal provisions, literature, and relevant written sources. Interviews were used to obtain direct information regarding police efforts, patterns of abuse, and obstacles to law enforcement. The collected data were analyzed descriptively and qualitatively, namely by describing field data, relating it to legal norms and criminal law theory, and then drawing conclusions that answer the problem formulation.

3. Results and Discussion

This section's discussion focuses on answering two research questions. The analysis is conducted by linking the legal basis for subsidized fuel regulations, police authority, case report data, types of abuse, and the results of interviews with police officers. Therefore, the discussion not only explains the applicable legal norms but also assesses how these norms operate in practice in combating the crime of subsidized fuel abuse in Pohuwato Regency. The first subsection discusses police efforts, while the second discusses factors hindering law enforcement.

3.1. Efforts of the Pohuwato Police Resort in Combating Criminal Acts of Misuse of Subsidized Fuel Transportation

The misuse of subsidized fuel in Pohuwato Regency is directly related to downstream oil and gas activities, particularly transportation and trade. Article 5 of Law Number 22 of 2001 defines downstream activities as processing, transportation, storage, and trade [2]. Therefore, when someone transports or trades subsidized fuel without a permit or deviates from its intended use, the act can no longer be understood as a normal economic activity, but as an act that has the potential to fulfill the elements of an oil and gas crime.

The main legal basis for enforcement is Article 53 and Article 55 of Law Number 22 of 2001. Article 53 regulates sanctions for downstream business activities without permits, including transportation and trade. Article 55 regulates sanctions for anyone who misuses the transportation and/or trade of government-subsidized fuel [2]. With this norm, the police have a basis to take legal action against transportation and trade of subsidized fuel that does not comply with the provisions. This action is also in line with the police's function as law enforcers as regulated in Law Number 2 of 2002 [8].

Based on data from the Pohuwato Police Tipidter Unit, reports of subsidized fuel misuse show an increasing pattern in certain years. In 2021, there was one report, in 2022, there were seven reports, and in 2023, there were three reports [7]. The increase in 2022 indicates that subsidized fuel misuse in Pohuwato is not an isolated incident, but rather a recurring problem. This data also indicates that the police have received and processed reports related to subsidized fuel misuse, particularly through specific criminal functions.

The modes of abuse found in the field are quite diverse. First, there are individuals who repeatedly queue at gas stations to buy subsidized fuel, then transfer it from the vehicle's tank to jerry cans or gallons for resale. Second, there are vehicles with tanks modified to be able to hold larger amounts of fuel. Third, there is the use of certain vehicles such as the Suzuki Thunder and Isuzu Panther because their tank capacity is considered to hold more fuel. Fourth, there is misuse of permits or business recommendations to buy subsidized fuel, but then the fuel is resold at retail, including to mining areas. Fifth, there are still retailers who are found selling Pertalite and diesel at prices above the official price [7].

In addressing this phenomenon, police efforts can be divided into three forms: promotional, preventive, and repressive. Promotional efforts are the initial step to prevent the emergence of criminogenic factors. They take the form of legal education for the public, entrepreneurs, agents, and retailers regarding the prohibition on misuse of subsidized fuel. This education is important because some people do not yet understand that purchasing subsidized fuel in large quantities for resale can be categorized as transportation or commercial misuse. From a criminal law perspective, promotional efforts serve to build legal awareness before violations occur.

Promotional efforts are also carried out through the empowerment of Bhabinkamtibmas (community police officers). Bhabinkamtibmas hold a strategic position due to their close proximity to village communities and their ability to engage in social outreach. Through this function, the police can issue warnings, detect suspicious activity early, and foster community participation in monitoring the distribution of subsidized fuel. This is crucial because the police's oversight area is quite extensive, while misuse often occurs covertly through activities that appear to be ordinary purchases.

Preventive efforts are carried out through supervision and monitoring of subsidized fuel distribution. Based on research results, preventive measures taken include controlling gas station operators, agents, and retailers; inventorying areas prone to abuse; routine patrols; special surveillance during critical times; and placing personnel at points with the potential to become locations for abuse [7]. These efforts are a form of direct prevention to ensure that abuse does not occur or can be stopped before it develops into a larger crime.

Supervision of gas stations is crucial because they are the initial point of distribution of subsidized fuel to the public. Weak oversight at gas stations will make it difficult to prevent repeat purchases, the use of modified fuel tanker vehicles, and collaboration between unscrupulous buyers and certain parties. Therefore, the police need to coordinate intensively with gas station operators to establish a mechanism for prompt reporting of any unusual purchases, suspicious vehicles, or activities that suggest the misuse of subsidized fuel.

Repressive measures are taken after a suspected crime is committed or a public report is received. In this context, the police form a special team, conduct inspections in suspected areas, go undercover if necessary, gather evidence, make arrests, confiscate evidence, conduct investigations, and conduct inquiries [7]. Repressive measures aim to uncover cases that have occurred and ensure that perpetrators are prosecuted according to the law. These repressive measures are important to provide a deterrent effect, maintain legal certainty, and prevent the recurrence of abusive practices.

Legally, repressive measures must still be carried out based on the principle of due process of law. Criminal enforcement against the misuse of subsidized fuel should not be driven solely by public pressure, but must be based on the fulfillment of the elements of a criminal act. In criminal law theory, Moeljatno states that a criminal act is an act prohibited by law and accompanied by a threat of punishment for the violators [9]. Therefore, the police must prove the elements of the act, error, relationship to transportation or commercial activities, and the status of the fuel as subsidized fuel or fuel whose distribution is assigned by the government.

Furthermore, law enforcement against the misuse of subsidized fuel must be placed within the context of protecting the public interest. Fuel subsidies are intended for the benefit of the entitled public, not for the personal gain of the perpetrators. When subsidized fuel is diverted, hoarded, or resold above the official price, the loss occurs not only to the state but also to the public who lose access to subsidized fuel. Therefore, the police's role in this case has criminal, economic, and social dimensions.

Thus, the Pohuwato Police Resort's efforts to combat the misuse of subsidized fuel transportation have been implemented through a multi-layered strategy. Promotional efforts are directed at legal education and awareness, preventive efforts are directed at distribution supervision and early detection, and repressive efforts are directed at enforcement and investigation. However, the effectiveness of all these efforts depends heavily on clear regulatory support, the capacity of officers, coordination with gas stations, cooperation with local governments, and active community participation.

3.2. Factors Inhibiting the Efforts of the Pohuwato Police Resort in Combating the Crime of Misuse of Subsidized Fuel Transportation

Law enforcement against the misuse of subsidized fuel is not solely determined by the existence of criminal norms. The effectiveness of law enforcement is also influenced by law enforcement officials, the community, legal culture, facilities, and socioeconomic conditions. In the context of the Pohuwato Police, the obstacles identified can be grouped into several main factors: law enforcement factors, community factors, community cultural factors, distribution governance factors, and technical factors of evidence.

The first factor is law enforcement. Pohuwato Regency covers a vast area, but the number of personnel and oversight capabilities are not always commensurate with the size and variety of abuse methods. Misuse of subsidized fuel is often carried out covertly and appears to be a normal purchase. This makes it difficult for police to immediately distinguish between legitimate consumers and perpetrators intending to resell subsidized fuel. Under these circumstances, law enforcement requires intensive supervision, field intelligence, and information support from the public.

Furthermore, the limited availability of gas stations in some areas also contributes to the problem. The thesis states that one of the causes of the widespread misuse of fuel is the limited availability of gas stations, particularly in certain locations such as Marisa and Randangan Districts [7]. This limited access encourages some people to purchase in large quantities under the pretext of local distribution needs. However, in practice, this rationale can shift to illegal trading activities and resale for profit.

The second factor is the low level of public participation and legal awareness. Based on the results of interviews in this thesis, some residents are less cooperative, allow it, or do not report it when they see subsidized fuel misuse activities in their village [7]. This condition shows that law enforcement cannot run optimally if the community is passive. In many cases, the community is actually aware of the practice of transporting or selling subsidized fuel at retail, but does not report it because it is considered a habit, a source of income, or does not cause direct harm.

The third factor is community culture. The practice of buying fuel in installments, or buying it for storage and resale, has become a common practice in some communities. When a legally problematic act is accepted as social practice, law enforcement will face resistance. The public may view police action as an obstacle to livelihoods, rather than an effort to maintain equitable distribution. This demonstrates a clash between formal legal norms and community legal culture.

The fourth factor is the misuse of recommendations and weak distribution governance. Local governments or certain parties can issue recommendations to the public or businesses to obtain subsidized fuel according to specific needs. However, these recommendations can be misused to obtain large quantities of fuel for resale. If the verification and oversight mechanisms for recommendations are not strict, recommendations, originally intended to meet the needs of the community, can become opportunities for abuse.

The fifth factor is the lack of transparency and internal oversight at gas stations. The thesis notes issues related to subsidized fuel sales practices that are not fully transparent and prioritize fuel that runs out quickly without considering the distribution consequences [7]. This condition can weaken the function of gas stations as official distribution points. If internal gas station oversight is not strong, then buyers with modified tanks, vehicles that queue back and forth, or buyers who use certain methods will more easily obtain subsidized fuel outside of normal limits.

The sixth factor is the use of modified fuel tanks. Modified vehicle tanks allow perpetrators to hold larger amounts of fuel than normal. On the one hand, some perpetrators commit these acts for family economic reasons. However, from a legal perspective, these acts can be part of a modus operandi for misusing subsidized fuel distribution. The challenge for the police is balancing law enforcement with social sensitivity, as the criminal penalties under the Oil and Gas Law are quite severe compared to the socioeconomic circumstances of some perpetrators.

The seventh factor is the limited availability of experts in the region. In handling oil and gas cases, expert testimony is often needed to explain the technical and legal aspects related to subsidized fuel, distribution, business permits, and elements of misuse. The thesis notes that the lack of experts in Gorontalo Province can cause the expert examination process to take quite

a long time [7]. This obstacle affects the speed of investigations and the quality of evidence, especially when cases must be immediately transferred according to criminal procedural law procedures.

The eighth factor is the complexity of proving the elements of a crime. In cases of misuse of subsidized fuel transportation, police cannot simply find a certain quantity of fuel. Authorities must prove that the fuel in question is subsidized or government-assigned fuel, that transportation or trade occurred, that the intended use was misused, and that the perpetrator lacked a valid permit. These elements require documentary evidence, witness testimony, physical evidence, expert evidence, and a series of events demonstrating an intent to profit.

The ninth factor is the existence of unlicensed fuel retailers, or Pertaminis. This phenomenon adds complexity because some people rely on retailers for fuel, especially in areas far from gas stations. However, if retailers obtain fuel from subsidies intended for specific consumers and then resell it at higher prices, this practice is detrimental to the state and the public. Therefore, local governments and law enforcement officials need to distinguish between the distribution needs of the community and illegal trade practices that harm the public interest.

Based on the above description, the obstacles to law enforcement in the case of misuse of subsidized fuel transportation in Pohuwato Regency are not isolated. These obstacles are a combination of limited apparatus, minimal public participation, a culture of gratification, weak gas station supervision, misuse of recommendations, the use of modified tanks, limited expertise, and the complexity of the evidence. Therefore, resolution cannot rely solely on criminal prosecution but must be supported by improvements in distribution governance, administrative oversight, legal education, cross-agency coordination, and raising public awareness regarding the purpose of fuel subsidies.

4. Conclusion

The Pohuwato Police Resort's efforts to combat the misuse of subsidized fuel transportation are carried out through three main strategies: promotional, preventive, and repressive. Promotive efforts are carried out through legal counseling, providing information to the public, entrepreneurs, agents, and retailers, and empowering Bhabinkamtibmas (Community Police Officers). Preventive efforts are carried out through monitoring the distribution of subsidized fuel, monitoring gas stations, inventorying vulnerable points, routine patrols, surveillance, and deploying personnel at vulnerable locations. Repressive efforts are carried out through the formation of teams, inspections, undercover operations, arrests, confiscation of evidence, investigations, and inquiries into alleged misuse of subsidized fuel. This role demonstrates that the police are not only oriented towards prosecution, but also on prevention and oversight of distribution to ensure that fuel subsidies are on target.

Factors hindering the efforts of the Pohuwato Police Resort include law enforcement, community, and cultural factors, as well as technical obstacles in the governance of distribution and evidence. These obstacles include the vast area of supervision, the limited number of gas stations, low community cooperation, the culture of installments as an economic habit, the misuse of recommendations, the lack of gas station transparency, the use of modified vehicle tanks, limited expertise in the region, and the complexity of proving elements of oil and gas crimes. Therefore, overcoming the misuse of subsidized fuel needs to be carried out in an integrated manner through strengthening coordination between the police, local governments, gas stations, BPH Migas, and the community, accompanied by increased legal education and stricter distribution supervision.

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