

Factors of contraban cigarettes smuggling in Malaysia

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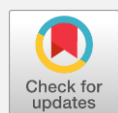
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ABSTRACT

The Royal Malaysian Customs Department takes seriously the issue related to cigarette smuggling activities which due to the study conducted put the smuggled cigarette market and the sale of smuggled cigarettes in this country is the largest in the world. This study aims to examine the issues related to cigarette smuggling in Malaysia. The research methodology is to use the library research method. The findings of the study are based on previous studies. This study focuses on the factors of smuggling in Malaysia. The results of the study can list the main factors that contribute to the widespread smuggling of cigarettes in Malaysia. The findings of this study on the factor of cigarette smuggling can be used as a guide to further improve control and enforcement at the country's entrances. The implementation of research related to the type and form of punishment that can be imposed on those convicted of smuggling prohibited goods, especially contraband cigarettes. The second is the formation of a police community consisting of the general public.

Keywords:

Malaysian Customs Department; Cigarette; Smuggling; Contraband

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INTRODUCTION

Illegal cigarette trade is defined as 'production, import, purchase, sale or possession of tobacco products that fail to comply with legislation' (Financial Action Task Force, 2019). Illegal cigarette trade activities are divided into three categories, namely contraband cigarettes, counterfeit cigarettes and white contraband cigarettes. Smuggling and sale of contraband cigarettes has been identified as an emerging phenomenon in recent times (Vijayan & Chethiyar, 2020). Malaysia is in the top position in cigarette smuggling in the world at 65%. The Royal Malaysian Customs Department aims to cover the leakage of government revenue up to RM5 billion (Adnan, 2020).

Besides that, the demand for cigarettes is high in Malaysia and this causes smuggled cigarettes to also get the attention of consumers (Vijayan & Chethiyar, 2020). Consumer attitudes where contraband cigarettes are an option due to low prices (Rejab & Zain 2006). Smokers consider these products cheap, and can be owned with pocket money compared to

legitimate products that are taxed relatively high. Cigarettes smuggled into the country are three times more dangerous in terms of health and can be subject to severe penalties. But, the attitude of smugglers who are willing to take risks despite knowing the facts (Hairom, 2020). Contraband cigarettes are cigarettes smuggled from abroad without paid domestic duties. Counterfeit cigarettes are said to be cigarettes manufactured without the verification of the rightful owner, intended to deceive consumers. White contraband cigarettes are brands that are legally manufactured in one country, but are smuggled and sold to others without payment of duty (Bate, 2016).

According to Rejab & Zain (2006) the smuggled cigarettes phenomena will result in Malaysia losing tax income of between RM5 billion and RM6 billion each year. According to records from Japan Tobacco International (JTI), illegal cigarettes account for 62 percent of the 12.2 billion cigarettes sold in Malaysia. The problem of contraband cigarettes in Malaysia is still there, according to a survey done by the Confederation of Malaysian Tobacco Manufacturers (CMTM) and an independent research institute, The Nielsen Company (Malaysia) Sdn Bhd. Despite enforcement efforts, there is still an increase of illegal cigarette sales (Financial Action Task Force, 2019).

Cigarette sellers tactically sell contraband cigarettes using name codes or secret codes, which make detection and eradication difficult. Geographical factors between Malaysia and neighboring countries are also another factor for smuggling to occur. Malaysia and Thailand are separated by a river, several meters wide and many rat lanes are not protected by the authorities. A cigarette was also smuggled from the duty-free island of Langkawi by abusing the facilities provided by the government (McLaughlin, 2007).

The Royal Malaysian Customs Department takes cigarette smuggling by tekong and its members, which is organised by illicit smugglers and local gangsters, very seriously (Vijayan & Chethiyar, 2020). Furthermore, rising cigarette prices have increased the market's desire for illegal cigarettes (MyMetro, 2018). Malaysia has the greatest prevalence of contraband cigarettes in the world, according to a study by British American Tobacco (BAT) (2010), and loses about RM100 million each week to smugglers and illegal sellers. Furthermore, according to BAT (2010) and Oxford Economics, six out of ten cigarettes sold in Malaysia are not taxed by the Malaysian government (Freeman & Chapman, 2010).

A study by Vijayan & Chethiyar (2020) explores the issue of cigarette smuggling in Malaysia. This study clarifies that attention is needed to know the contributing factors and need to take steps to address this issue. This study uses a source library design and uses reference materials from various sources relevant to the study. Based on the study, contraband cigarettes have a negative impact on the country.

Study by Joossens & Raw (2000) also showed that cigarette smuggling into Vietnam takes a transit route. Cigarettes sourced from the United Kingdom (UK) are then shipped to Singapore as duty-free goods. They then sell it to importers and traders in Cambodia, who will then transport it illegally to Vietnam. Those who buy contraband cigarettes may not be aware of the fact that they are part of a network of organized crime that can cause misery to the world's population. Citing the report of the National Health and Morbidity Survey (NHMS 2015) by the Ministry of Health Malaysia, stated that cigarettes are recorded as a major contributor to deaths with 20,000 deaths annually. The study also showed that 22.8% or 5 million Malaysian smokers aged 15 years and above are smokers. Among them, smokers aged 20 to 54 years have the highest smoking rates, and most are men (Berita Harian, 2019).

The factor that caused illegal trade to flourish was the lack of strict enforcement by the authorities. Customs authorities play an important role through two mandates to facilitate formal trade while preventing illegal trade. Customs authorities play an important role through two mandates to facilitate formal trade while preventing illegal trade. Malaysian

Customs Director-General Dato 'Sri T. Subromaniam acknowledged that there is an enforcement gap in combating smuggling and tougher penalties need to be implemented to deter illegal traders from these illegal activities (Arumugam, 2017).

Lack of transparency and corruption at the border are also among the issues linked to weak enforcement by the authorities. Weak rule of law encourages smuggling because it becomes more profitable to trade illegally when the expected costs such as penalties imposed are small compared to the expected profits (Satar, 2020). Although there are studies on the smuggling of other cigarettes such as the study by Rejab & Zain (2006) but in such studies can not explain about the trend of smuggling and sale of contraband cigarettes at present. The main objective of this study is to identify the factors of the contraband cigarettes smuggling in Malaysia.

METHOD

Library resources are used for library research to collect and analyze data. Researcher also combined ideas from library sources to draw synthetic conclusions. In this research, researchers use several sources and books as references. It is also categorized as a library resource. Library research data is not limited by time and space. Data is information or facts used in setting the answers to a research question. The source of data in the study is from which the study data can be collected (Arikunto, 2011). Researcher used library resources by collecting books, documents and other printed materials as data sources. In this study, researchers mostly used printed materials to obtain information on the issue of smuggling and trafficking of contraband cigarettes.

The data collection method is the method of data collection used in this research. Researchers use a qualitative approach that forms utterance data. According to Ezzy (2002) a qualitative approach typically relies on four methods for gathering information namely participating in arrangements, observing firsthand, interviewing in -depth, and analyzing documents and materials. Researchers used qualitative documentation methods in data collection. Researchers conducted documentation from articles on the issue of smuggling of contraband cigarettes.

Researchers describe data collection techniques to validate data. The researcher also selected the techniques applied in this study. Qualitative triangulation technique was used by the researchers in this study. According to Meijer et al. (2002) there are five types of triangulation in qualitative studies namely triangulation by data source, triangulation by method, triangulation by researchers, theory -based triangulation and triangulation by data type. In this study, researchers used theory -based triangulation to obtain data on the issue of contraband cigarette smuggling. Information related to contraband cigarettes and smuggling issues can be obtained from this type of triangulation. Researchers obtained data from many sources such as books, journals, and articles related to the study.

RESULT AND DISCUSSION

The smuggling of contraband cigarettes is one of the global issues that have a lot of impact on the country's economy. Bruns et al. (2011) have provided insights based on empirical evidence in post-socialist countries on why smuggling and small-scale cross-border trafficking activities occur. It explains that cross-border economic activities have been accepted by the surrounding communities despite their illegality. Merriman (2013) have statistically analyzed the relationship between the accepted level of goods smuggled into a country and the transparency of the management of state and government regulations and business transactions. It is found that it is easier to circumvent border controls. Australia is one of the countries that takes the issue of cigarette smuggling seriously. In 2012, Australia

suffered a loss of \$ 1.1 billion due to contraband cigarettes. In 2016, 14.3 % of tobacco from Australia, came from the black market and it brought a lot of losses to the Australian nation.

In Ireland, 9 million contraband cigarettes were seized while shipping from Malaysia (O'Halloran, 2013). Cigarette prices in Ireland are the highest compared to other countries and lead to the smuggling of cigarettes in that country. Smuggled cigarette sellers buy cigarettes cheaply from other countries and sell cheaply in Ireland (Collins, 2015). Smuggling activity is very high in Ireland. In Hong Kong, customs officials seized 1.3 million illegal cigarettes, equivalent to a market value of \$ 3.3 million in an industrial building. Hong Kong police arrested 1200 suspects on charges of drug trafficking, possession of weapons, illegal drugs and contraband cigarettes (Changy, 2012).

Cigarette smuggling happens everywhere in Malaysia. The most famous area for cigarette smuggling in Malaysia is along the west coast of Peninsular Malaysia, from Perak to Kuantan. Cigarette smuggling is difficult to curb in areas on the west coast of Peninsular Malaysia. Sabah and Sarawak are also involved in cigarette smuggling activities. The ports of Miri and Bintulu in Sarawak are also famous for cigarette smuggling activities. In Sabah, smuggling activities occur in Lahad Datu, Sandakan and Tawau (Rejab & Zain, 2006).

The Royal Malaysian Customs Department takes issues related to cigarette smuggling seriously. One of the reasons for the demand for contraband cigarettes in the market is due to the increase in cigarette prices (MyMetro, 2018). According to British American Tobacco (BAT) (2010), Malaysia has the highest incidence of smuggled cigarettes in the world and loses almost RM100 million every week to cigarette smugglers. 6 out of 10 cigarettes used in Malaysia do not tax the Malaysian Government (British American Tobacco (BAT), 2010). In addition, losses from smuggling are always borne by the Malaysian government through tax evasion.

Smuggled cigarettes are not taxed while non -smuggled cigarettes are taxed. Under Malaysian law, local cigarette manufacturers are required to make a safety symbol on each pack issued, and this will be regulated by Malaysian Customs. If the manufacturer wants to sell the cigarettes produced, the manufacturer has to pay tax before exporting the cigarettes. Manufacturers have to buy banderols from Malaysian Customs, if they want to import manufactured cigarettes. Cigarette boxes that do not have a banderol, are considered contraband cigarettes (Rejab & Zain, 2006).

Sellers of contraband cigarettes do not pay taxes and they will benefit from contraband cigarettes on the black market (Antonopoulos, 2006). Cigarette companies pay relevant taxes and duties and make a positive contribution to national income as well as oppose cigarette smuggling (Rejab & Zain, 2006). Therefore, contraband cigarettes and non -contraband cigarettes have differences from each other. There are two types of contraband cigarettes available in Malaysia, namely white leather and kretek. White smuggled cigarettes are different from kretek smuggled cigarettes. The whites below are from China, Europe, Hong Kong and Taiwan. Kretek cigarettes mostly originate from Indonesia (Rejab & Zain, 2006).

Offenses involving contraband cigarette smuggling activities need to be dealt with effectively. The findings of the study show that there are many factors that contribute to the prevalence of contraband cigarette smuggling activities such as profit factors, market factors and the tendency of many consumers. This is also in line with the view of Hsia & Saat (2020) who stated that the profit factor is one of the main factors that drive distributors and sellers to market and sell contraband goods. It is not only limited to clothing and daily necessities as is often the case at the Malaysia-Thailand border and the Malaysia-Kalimantan border, but also involves cigarette smuggling activities that occur widely in the border area. The same thing was also stated by Ering (2011) who stated that profit factors and simple marketing activities are among the main factors that lead to smuggling activities. The same thing is also

one of the factors that cause the smuggling of contraband cigarettes in the main states of Malaysia.

In the meantime, the tendency to prioritize the use of contraband cigarettes compared to taxable cigarettes is also one of the factors that cause the smuggling of contraband cigarettes to become more widespread. The findings obtained in this study show that the economic situation of consumers, the factor of ignoring the punishment for buying contraband cigarettes is among the factors that cause consumers are more likely to buy contraband cigarettes than taxable cigarettes. Masron et al. (2011) stated that consumers' attitudes of being more comfortable using contraband cigarettes are among the reasons why consumers choose to use contraband cigarettes as opposed to taxable cigarettes. Although the effects on health are similar, consumers are more likely to choose contraband cigarettes. Gruber et al. (2002) stated that contraband cigarettes are cheaper than taxable cigarettes. Low financial means cause smokers to prefer contraband cigarettes over taxable cigarettes. Indirectly, this situation has caused the smuggling of contraband cigarettes to increase, including in the states in northern Malaysia.

In the meantime, unsatisfactory enforcement factors are also among the factors that cause the increasing smuggling of contraband cigarettes. The findings of the study resulted in low enforcement activities and low penalties causing the smuggling of contraband cigarettes to occur frequently in the northern states in Malaysia such as in Perlis, Kedah and Penang. Sadeghi et al., (2014) explained that the borders of a country are too wide to control. Although enforcement activities have increased, smugglers still have their own alternatives to smuggle goods at the borders of a country. Stated that low enforcement activities caused smuggling activities at the national border to become more widespread. Smugglers always have ways and means to ensure that their goods can be smuggled into neighboring countries. The same thing also happened to the smuggling of contraband cigarettes at the Malaysian border, especially in the main states in Malaysia.

Sellers and buyers are subject to the same act which is the Customs Act 1967, section 135. Police also use the same act for contraband cigarettes or contraband cigarettes or non-taxable cigarettes. Amendments to the Customs Act 1967 and the Excise Act 1976, to curb smuggling activities and duty evasion of cigarettes and intoxicating beverages came into effect on 2 January 2019. For offenses involving smuggling, duty evasion and fraud under Section 135 of the Customs Act 1967, higher penalties were imposed on offender.

The accused was charged under Section 135 (1) (d) of the Customs Act 1967 and sentenced under Section 135 (1) (v) (aa) of the same act which provides for a fine of not less than 10 times the value or RM100,000 (whichever is higher) up to not more than 20 times the value of the bribe or RM500,000 or imprisonment of not less than six months and not more than five years or both. In conducting this study, the researcher has set some scope of the study. Among them is that this study is limited to the issue of smuggling at the entrance of Malaysia. Further, this study was limited to the issue of smuggling of contraband cigarettes only. Third, this study is limited to issues involving the Royal Malaysian Customs Department only.

CONCLUSION

The smuggling and sale of contraband cigarettes has been identified as an emerging phenomenon in recent times. Malaysia is in the top position in cigarette smuggling in the world at 65%. The Royal Malaysian Customs Department aims to cover government revenue leakages of up to RM5 billion. This study can provide a clearer picture to the Royal Malaysian Customs Department on how smuggling still occurs despite having tight controls at the country's border gates. In addition, this study to the Malaysian government, hopefully the

findings of the study on the issue of smuggling can be used as a guide to further improve control and enforcement at the country's entrance.

The smuggling of contraband cigarettes that still occurs today needs to be addressed more aggressively and effectively. Therefore, there are several suggestions for further research that can be implemented in the future so that the issue of smuggling of contraband cigarettes can be curbed effectively. Among the research proposals that can be implemented is the implementation of research related to the type and form of punishment that can be imposed on those convicted of smuggling prohibited goods, especially contraband cigarettes. Through this study, we will be able to identify the types of punishment that can be increased in order to increase public awareness so as not to be involved in the smuggling of contraband cigarettes. In the meantime, the study was also conducted to identify the form of punishment that can be taken on those convicted of buying contraband cigarettes. If there are no buyers, then the smuggling of contraband cigarettes will not be widespread. This is because, there is no demand from users.

In the meantime, the study will also be able to identify forms of enforcement that can be strengthened in order to curb and break the smuggling of contraband cigarettes at the country's borders. For example, creating special forces in areas that are often the route of smuggling activities, adding enforcement personnel at busy national borders and the like. Through enforcement activities like this, then efforts to curb the smuggling of contraband cigarettes will be able to be done more effectively.

The second possible further study proposal that can be implemented is the effectiveness of the formation of a police community consisting of the general public. Studies like this will be able to examine the need to form a police community consisting of the general public who are in the border areas of the country and often see smuggling activities. These established organizations will have their own roles and responsibilities in taking action on smuggling activities that take place at the border. In addition to being a spy for enforcement agencies, the role of this organization is also to take action against parties found to be involved in smuggling activities at the border such as arresting smugglers and offenders. Thus, faster action can be taken against those involved in the smuggling of contraband cigarettes, especially in the border areas.

The third study proposal that can be implemented is to strengthen the role of society. This study is to identify the role that can be played by the community in curbing and addressing the problem of smuggling of contraband cigarettes, especially at the national border. Through the study conducted, the community will be able to identify the roles and responsibilities that can be implemented in order to help enforcement agencies to curb and eliminate smuggling activities at the border. Therefore, the above three things are among the suggestions for further research that can be done in the future.

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