

The Effectiveness of the Illegal Levy Eradication Task Force (Saber Pungli) In Coping with the Illegal Levy Crimes (A Study In Aceh Province)

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Abstract: Introduction: This study intends to find out the duties and functions of the Illegal Levy Eradication Task Force (Saber Pungli) to combat illegal levies effectively and efficiently. The function of the Illegal Levy Eradication Task Force is to carry out the functions of intelligence, prevention, prosecution, and justice. Illegal levies are the imposition of fees or charges in areas where there should be no fees and where the laws are not complied with. Illegal charges are very detrimental to society, disrupting high-cost economies, hindering growth and generating policy mistrust. This research seeks to establish and build efficacy hypotheses of legal theory, law enforcement theory, and theory of crime prevention.

Research Method: The analysis methodology applied is judicial-empirical, indicating that the data collected in this study were taken from field observations through observations, interviews and sampling techniques as information subjects in this study.

Discussion: The establishment of the Illegal Levy Eradication Task Force based on Government Regulation Number 87 of 2016 concerning the Illegal Levy Eradication Task Force is to realize good governance and clean governance, so as to improve the discipline of government apparatus in the life of the nation and state. The task and the responsibility of the Illegal Levy Eradication Task Force are to set up a system for avoidance, eradication, coordination and arrest activity to eradicate illegal levies in the central and regional government. Illegal levies can be defined as the actions of each person to benefit himself or herself or another individual or group, misusing the power, incentive or means at his disposal because of his role or position that can harm the income of the government or the economy of the country.

Conclusion: Based on this research, it shows that the causes of illegal levies are economic factors, moral law enforcement officials, and opportunities. The obstacles to addressing illegal levies are lack of public knowledge of illegal levies. Authorities are advised to improve the public service surveillance system so that fraudulent payments can be avoided to the most considerable degree.

Kata Kunci: Illegal Levies, the Illegal Levy Eradication Task Force

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I. INTRODUCTION

Illegal levies are the imposition of charges or fees outside the location where no fees should be paid at the site or on the operation. So that it can be perceived as an activity involving charging fees or illegally demanding someone else's money, and it is a criminal practice or a criminal act that is also a despicable act.¹

Illegal levies are social phenomena that existed several centuries before independence with different patterns according to changes and developments in society. Illegal levies have become a classic problem in Indonesia, precisely in 1977, the government of the new order carried out an orderly operation (Opstib) whose main target was illegal payment practices. This operation was at that time led by Kaskopkamtib, who acted as the Head of Orderly Operations together with the Ministry of Administrative Reform. The existence of illegal levies (extortion) today is inseparable from history, even illegal levy becomes a culture that has been institutionalized, the illegal levy is a disease of society that has been entrenched from the highest echelon level to the lowest echelon.²

¹ Soedjono Dirdjosisworo, *Pungli, Analisa Hukum dan Kriminologi, Bandung, Karya Nusantara*, 1977, page 1.

² *Ibid*, page 4.

In order to obtain public services, every person can never avoid contact with government bureaucracy. Government bureaucracy has the right to enforce different rules and policies on society and every individual at the same time. That is why public services require a high level of responsibilities and must be free of all acts, for example, illegal payments, that damage the community. According to Klitgaards, when the government, as a public servant, has reliable public power, and imperfect accountability, corruption can occur.³

Based on 2015 Indonesian Ombudsman data, the sectors most vulnerable to the illegal payment practices are the local government (41.61%), the police (11.75%), Government/ Ministries (9.64%), State-owned and Local-Owned Enterprises (9.17%), National Land Agency (7.73%), Judicial Institutions (3.82%), Banking (2.04%), Prosecutors (1.71%), Government hospitals (1.04%), State Universities (1.02%), State Commissions/ LNS (0.96%), Non-ministerial government institutions (0.80%), Indonesian Armed Forces (0.57%), House of Representative (0.29%) and others (5.72%). Because of this, to optimize public services and as a form of bureaucratic reform in government institutions, appropriate steps are needed.⁴The programs of the Government of JokoWidodo-JusufKalla are as follows:⁵

- 1) To set the Nawacita (nine objectives) as the goal of the development agenda in order to make Indonesia a sovereign, autonomous, and individual. Beginning from the creation of a base and continuation of efforts in the field of growth, one of which is the three main pillars of law reforms: regulatory structures, institutional and law enforcement change and development of a judicial culture that produces influential juridical culture.
- 2) The legal reform focuses on five priority programs: the eradication of illicit payments, eradication of smuggling, acceleration of driving license service, vehicle number certificate, vehicle owner's book and police record, relocation of prisons and enhancement of trademarks, labels and designs.
- 3) The president released Government Regulation No. 87 of 2016 on October 20 to improve the effectiveness of eradicating the illicit levies concerning the Illegal Levy Eradication Task Force.
- 4) Based on Presidential Regulation No. 87 of 2016 concerning the Illegal Levy Eradication Task Force unit, it has damaged the joints of social, national and state life so that efforts to eradicate are firm, integrated, effective, efficient, and able to cause a deterrent effect and in efforts to eradicate illegal levies it is necessary to form an Illegal Levy Eradication Task Force.
- 5) President Joko Widodo warned all ministries/ agencies to stop the practice of illegal levies (extortion) and appointed the Coordinating Minister for Politics, Law, and Security as the controller and responsible for the activities of the Illegal Levy Eradication Task Force.

Illegal levies activities mainly occur in the town of Lhokseumawe, where seven illegal payment cases were reported in 2017, followed by Banda Aceh (five cases) and North Aceh (four). Based on this background, the writer will look at the urgency of the establishment of an Illegal Levy Eradication Task Force in coping with the illegal levies in Aceh.

II. RESEARCH METHOD

This thesis uses a system of analysis with a legal-empirical approach. Empirical law research is a substantive legal work on the actions of community members in connection with the community.⁶Legal symptoms, which are seen as pure empirical (factual) symptoms, are social facts that can be sensitively investigated.⁷This research also discusses doctrines or principles in law and is often referred to as theoretical research. This research was conducted on the principles of applicable law, legal systematics and level of legal synchronization.⁸

³ Laura Hardjaloka, *Studi Penerapan E-Government di Indonesia dan Negara Lainnya Sebagai Solusi Pemberantasan Korupsi di Sektor Publik*, journal of Rechts Vinding, Volume 3 No. 3, December 2014, Page. 436.

⁴ Coordinating Minister for Politics, Law and Security of the Republic of Indonesia, *Satgas Saber Pungli*, Delivered in the National Coordination Meeting of the Corruption Eradication Commission, Jakarta, 23 November 2016.

⁵ *I b i d.*

⁶ Asri Wijayanti, Lilik Sofyan Achmad, *Strategi Penulisan Hukum*, Bandung, Lubuk Agung, 2011, page 97.

⁷ Arief Sidharta, *Meuwissen Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum, dan Filsafat Hukum*, Bandung, Refika Aditama, 2018, page 59.

⁸ Zainudin Ali, *Metode Penelitian Hukum Cetak ke Lima*, Jakarta, Sinar Grafika, 2014, page 24-27.

III. DISCUSSION

A. The Urgency of the Establishment of the Illegal Levy Eradication Task Force

Establishing the Illegal Levy Eradication Task Force aims at achieving good governance and clean governance in order to improve the integrity of government apparatuses in the life of the nation and the state. The duty and authority of the Illegal Levy Eradication Task Force are to establish a system of prevention, eradication, coordination, arrest operation in the eradication of illegal levies is expected to eliminate illegal levies in the central or regional government environment.⁹ Illegal levies can be defined as the actions of any person in an attempt to benefit himself or another individual or cooperative by misusing his available power, ability or means because of his role or position which can be detrimental to the country or the country's economy.¹⁰

The establishment of the Illegal Levy Eradication Task Force is urgently needed to restore public trust, ensure justice and juridical health, and track President Joko Widodo's previously planned legal reforms. Furthermore, the establishment of the Illegal Levy Eradication Task Force was carried out because internal controls in public service agencies were considered to be still weak and opened space for the practice of the illegal charges.¹¹

In carrying out its functions and roles to tackle the illegal levies of the Illegal Levy Eradication Task Force, there are 236 personnel with the following details:¹²

- | | |
|--|-------------|
| 1) The Coordinating Political, Legal and Security Affairs Ministry | : 38 people |
| 2) Indonesian Police | : 86 people |
| 3) Ministry of Home Affairs | : 26 people |
| 4) Prosecutors | : 20 people |
| 5) Law and Human Right Ministry | : 18 people |
| 6) State Intelligence Agency | : 9 people |
| 7) Indonesian Armed Forces | : 18 people |
| 8) The Financial Transaction Reports and Analysis Center | : 11 people |
| 9) Ombudsman of The Republic of Indonesia | : 2 people |

The job description of the Illegal Levy Eradication Task Force is as follows:

- The Coordinating Political, Legal, and Security Affairs Ministry as Controller/ Person in Charge; Control, evaluate and report on the implementation of the Illegal Levy Eradication Task Force duties to the president.
- Chief Executive/Irwasum (Supervision Inspectorate) of Indonesian Police; 1) Make a strategic plan in the context of elaborating presidential policies. 2) Reporting the task force activities to the Coordinating Minister for Political, Legal, and Security Affairs every month or at any time in particular and contingency matters. 3) Coordinate with ministries/ institutions in the framework of collecting data and information supporting task force activities. 4) Carry out the command, control and supervision of the daily implementers and all sub-task forces.
- Expert Group; Provide input and advice to the head of the task force relating to the task force task and provide attention to the planning, implementation and evaluation of task force activities.
- Secretary; Assist in carrying out the task of the head of the task force, and in its implementation assisted by six heads of fields, namely: Operations, Logistics, General Administration, Finance, and Data and Information, and Publication.
- Intelligence Working Group; 1) Carry out mapping activities on the modus operandi carried out by extortion doers, 2) Conduct Eliciting infiltration activities in order to obtain the necessary information, 3) Make progress reports on the results of investigations to the chief executor of tasks, and 4) Assist the implementation of internal security of activities law enforcement carried out by the Illegal Levy Eradication task force from the possibility of efforts that could weaken the task force.
- Prevention Working Group; Carry out preventive efforts through socialization, smuggling, training, and other activities in order to prevent extortion.
- Enforcement Working Group; make repressive efforts (Arrest Operation) under their authority towards the illegal levy actors throughout the ministries or institutions that provide public services.

⁹ Ravi Alwafi Vinky, *Pengawasan Satuan Tugas Sapu Bersih Pungutan Liar (Satgas Saber Pungli) di Provinsi Riau (Studi Kasus Dinas Kehutanan)*, Jom FISIP, Vol. 5 , 2018, page 1.

¹⁰ Mustofa Hasan, Beni Ahmad Saebani, *Hukum Pidana Islam Fiqh Jinayah*, Bandung Pustaka Setia, 2013, page 366.

¹¹ Novi Niazar, *Pemberantasan Tindak Pidana Pungutan Liar (Suatu Penelitian di Satuan Tugas Sapu Bersih Pungutan Liar Kota Banda Aceh)*, Thesis, Law Faculty of Universitas Syiah Kuala, page 3.

¹² Kemenpolhukam, *Op Cit.*

- h) Judicial Group; Provide input and suggestions to the chief executive regarding the perpetrators who have taken action, whether carried out in an administrative or criminal action according to their authority.

The regulation regarding illegal levies is already listed in Article 423 of the Indonesian Criminal Code, but the Criminal Code does not mention or do not include any mention of any illegal levies. The provisions read as follows:

“An official with the intention of benefiting himself or other people unlawfully, by abusing his authority, forcing a person to give something, to pay or accept something threatened with a maximum sentence of six years.”

The legal basis for ensnaring illegal levies is regulated in several statutory provisions as follows:¹³

- 1) Law Number 11 of 1980 concerning Bribery Act Article 3.
- 2) Criminal Law Article 368, Article 423 and Article 425.
- 3) Law Number 20 of 2001 concerning Amendment to Law 31 of 1999 concerning Eradication of Corruption Crimes Article 5 Paragraph 1, Article 5 Paragraph 2,
- 4) Article Government Regulation Number 53 of 2010 concerning Discipline of Civil Servants
- 5) Government Regulation Number 20 of 2008 concerning Dismissal prosecutor

B. Coping with the Illegal Levy Crimes in Aceh

The illegal levies have detrimental consequences for the people of Aceh. Based on data from the head of the Aceh Illegal Levy Eradication Task Force, it was reported that 18 cases of arrest operations (OTT) were successfully disclosed in 2017 by the provincial and regency/city Illegal Levy Eradication Task Force, involving both government officials such as civil servants, police and others. This trend also demonstrates that the province of Aceh is inseparable from the very nature of disgraceful actions by law enforcement officials. A case of illicit levies in Aceh will be described as the following concrete data:

Table 1.1 Data on the Achievement of Arrest Operation Cases, Investigations, Verdicts and Guidance

No.	CASE ACHIEVEMENT	TOTAL
1	Arrest Operation (OTT)	74
2	Investigation	29
3	Verdict	11
4	Administrative Sanctions	34

Source: Post of the Illegal Levy Eradication Task Force of Polda Aceh

The data that will be used to demonstrate the efficacy of the illegal levy task force Eradication will be attached as follows to explain the status of the illegal levy activities at Aceh. The author shall describe in the following table the data of 74 cases of the arrest operation involving illegal levies in Aceh that occurred in the period 2016-2018:

Table 1.2 Data on Arrest Operation in Provincial Illegal Levy Eradication Task Force

No.	Illegal Levy Eradication Task Force	2016	2017	2018
1	Province of Aceh	2	1	1

Source: Post of the Illegal Levy Eradication Task Force of Polda Aceh

¹³ Yudi Kristiana, *Teknik Penyidikan & Pemberkasan Tindak Pidana Korupsi*, Yogyakarta, ThafaMedia, 2018, page 6.

Tabel 1.3 Data on Arrest Operationin regional Illegal Levy Eradication Task Force

No.	Illegal Levy Eradication Task Force	2016	2017	2018
2	Banda Aceh	-	5	-
3	Aceh Besar	-	2	-
4	Pidie	-	4	1
5	Pidie Jaya	-	2	1
6	Bireuen	-	2	1
7	Lhokseumawe	-	7	2
8	North Aceh	-	4	-
9	East Aceh	-	3	2
10	Langsa	-	2	-
11	Aceh Tamiang	-	3	-
12	Bener Meriah	-	3	2
13	Central Aceh	-	1	-
14	Gayo Lues	-	1	-
15	South East Aceh	-	1	-
16	Aceh Jaya	-	1	-
17	Aceh Barat	-	2	4
18	Nagan Raya	-	2	1
19	Aceh Barat Daya (ABDYA)	-	3	-
20	South Aceh	-	1	2
21	Subussalam	-	-	-
22	Singkil	-	1	2
23	Sabang	-	1	1
24	Simelue	-	-	-
	Total		51	19

It has shown some positive changes in this regard since the creation of the Illegal Levy Eradication Task Force, the illegal levies are experiencing a downward trend but have not been able to provide efficacy in combating illegal levies or have not yet achieved the goal of establishing the task force for the eradication of illegal levies. As for the reasons for the crime of illicit payment, the following are:

- 1) Economic factors;
- 2) The factor of opportunity and weak supervision;
- 3) The factor of lack of legal awareness from the illegal levies;
- 4) Discipline mentality factors of state administrators;
- 5) Abuse of authority;
- 6) Factors that are not good habits, and;
- 7) The factor of uncertainty in public services

The efforts that can be made in coping with illegal levies in Aceh are as follows:

- 1) Proactive strategies (coaching)
 - a) Mapping of the illegal levy practices in the Aceh area;
 - b) Building an anti-illegal levy culture;
 - c) Improve socialization to the community, and;
 - d) Conducting to anticipate illegal levy practices.
- 2) Preventive strategies (prevention)
 - a) Disseminating the mapping of the illegal-payment-prone areas to state institutions and regional governments;
 - b) Optimizing the role of the ministry's internal control function or regional government;
 - c) Optimizing monitoring and evaluation and supervision in the public service system;
 - d) Having efforts to improve welfare for the State Civil Apparatus, and;
 - e) Having courageous efforts from the public to report.
- 3) Repressive Strategies (Law Enforcement)
 - a) Increasing cooperation and coordination in the arrest operations according to predetermined targets;
 - b) Taking firm action against State Civil Apparatus or law enforcement agencies involved in illegal levies, and;
 - c) Increasing cooperation and coordination of sanctions for illegal levies under the provisions of the Act.

IV. CONCLUSION

The study shows that the causes of illegal levies are economic factors, the integrity of law enforcement officers, and opportunities. The barrier to the handling of illegal levies is the lack of public knowledge on the illegal levy. Improving the surveillance system of public services is recommended for authorities so that illicit payments can be avoided as much as possible. The Illegal Levy Eradication Task Force should first sweep inside the agency before carrying out illegal payment operations outside the agency.

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