

## Cheap Smoke, Lives at Stake: Exposing the Weakness of Consumer Protection Against Illegal Cigarettes in Makassar

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**Abstrak:** Penelitian ini bertujuan Untuk mengetahui dan menganalisis perlindungan hukum terhadap konsumen dari peredaran rokok ilegal di Kota Makassar serta untuk mengetahui dan menganalisis upaya pemerintah dalam hal pencegahan peredaran rokok ilegal di Kota Makassar. Penelitian ini menggunakan penelitian hukum empiris, yang dimaksud dengan penelitian empiris adalah yakni suatu metode penelitian hukum yang berfungsi untuk melihat hukum dalam artian nyata dan meneliti bagaimana kerjanya hukum di lingkungan Masyarakat. Dengan penelitian tersebut, maka penulis dalam penyusunan penelitian ini lebih mengarahkan pada pengkajian fakta-fakta yang terdapat di lapangan terkait Perlindungan hukum konsumen terhadap konsumen peredaran rokok ilegal di Kota Makassar. Hasil Penelitian ini menunjukkan bahwa Perlindungan hukum terhadap konsumen rokok ilegal di Kota Makassar belum efektif karena rendahnya kesadaran konsumen, keterbatasan informasi dimana konsumen disini kurang mengetahui tentang apa itu cukai dan bagaimana akibat mengomsumsi rokok yang tanpa cukai atau ilegal, dan lemahnya implementasi Undang-Undang Perlindungan Konsumen. Konsumen memilih rokok ilegal karena harga murah tanpa memperhatikan risiko kesehatan, Upaya pemerintah melalui Bea Cukai telah dilakukan melalui penindakan dan edukasi, namun terkendala sumber daya, koordinasi, dan teknologi pengawasan. Rekomendasi penelitian Pemerintah dalam hal Bea Cukai Kota Makassar disarankan meningkatkan edukasi publik tentang risiko rokok ilegal, memperkuat pengawasan berbasis partisipasi masyarakat, serta meningkatkan koordinasi, sumber daya, dan pemanfaatan teknologi pengawasan untuk mendorong pencegahan peredaran rokok ilegal yang lebih efektif dan melindungi kesehatan masyarakat serta perekonomian negara.

**Kata Kunci:** Perlindungan Hukum, Hukum Konsumen, Peredaran Rokok Ilegal

*Abstract: This study aims to identify and analyze the legal protection of consumers against the circulation of illegal cigarettes in Makassar City and to examine government efforts in preventing the distribution of illegal cigarettes in Makassar City. This research employs an empirical legal research method, which examines law in its real context and analyzes how law operates within society. Accordingly, this study focuses on field facts related to consumer legal protection against the circulation of illegal cigarettes in Makassar City. The results of this study indicate that legal protection for consumers of illegal cigarettes in Makassar City has not been effective due to low consumer awareness, limited access to information—where consumers lack understanding of excise and the risks of consuming illegal cigarettes—and weak implementation of Consumer Protection Law. Consumers tend to choose illegal cigarettes because of their lower prices without considering the health risks; government efforts through the Customs and Excise Office have been carried out through enforcement and educational programs, but these efforts*

*face obstacles in terms of limited resources, coordination, and surveillance technology. This study recommends that the Makassar Customs and Excise Office enhance public education regarding the risks of illegal cigarettes and strengthen community-based monitoring, and improve coordination, resources, and the use of surveillance technology to promote more effective prevention of illegal cigarette circulation and to protect public health and the national economy.*

**Keywords:** *Legal Protection, Consumers Law, Illegal Cigarette Circulation*

## **INTRODUCTION**

The circulation of illegal cigarettes constitutes a legal phenomenon with multidimensional implications, affecting not only the state's fiscal interests but also the legal protection of consumers as the parties who consume such products. From the perspective of consumer protection law, illegal cigarettes are products distributed without fulfilling legal obligations, including the payment of excise duties and compliance with state regulatory standards, thereby potentially harming consumers in terms of health, safety, and legal certainty. The State, as the guardian of the legal interests of its citizens, has a constitutional obligation to ensure such protection as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia, which affirms that one of the objectives of the State is to protect the entire Indonesian nation. Within the framework of positive law, this protection is specifically regulated through various legal instruments, including Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen and Undang-Undang Nomor 39 Tahun 2007 tentang Cukai. [2], as well as Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan, which normatively requires that every product distributed in the market comply with standards of legality and safety. [3].

In addition to having constitutional and juridical foundations, consumer protection also rests upon philosophical and moral grounds, particularly from the perspective of law grounded in the values of justice. The principle prohibiting the unlawful acquisition of profit and the prohibition against causing harm to others are explicitly affirmed in Qur'an, Surah An-Nisa verse 29, which states that individuals are forbidden from consuming the property of others through wrongful means. These provisions imply that every economic activity must be carried out lawfully, fairly, and without causing harm to others, including in the production and distribution of goods. The circulation of illegal cigarettes, which fails to fulfill legal obligations such as the payment of excise duties and compliance with state regulatory standards, may be categorized as an economic practice that contradicts this principle of justice, as it has the potential to harm both consumers and the State. Accordingly, legal protection for consumers is not merely a constitutional obligation, but also forms part of the broader effort to realize substantive justice in economic activities.

However, empirical reality demonstrates a gap between legal norms (*das sollen*) and their factual implementation (*das sein*). Data from the Direktorat Jenderal Bea dan Cukai indicate that the

circulation of illegal cigarettes continues to occur significantly in various regions of Indonesia, including Makassar, as evidenced by numerous enforcement operations against the distribution of cigarettes without official excise stamps. This condition shows that the existence of regulations has not been fully effective in providing legal protection to consumers. Consumers, as parties in a weaker position within the transactional structure, often lack adequate information regarding the legality of the products they consume, thereby potentially suffering losses without obtaining optimal legal protection. Studies on consumer legal protection and the circulation of illegal cigarettes have been conducted by several previous researchers. Research by Gabriella and Bakhtiar analyzed consumer legal protection against the distribution of illegal goods from the perspective of Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen and concluded that weak supervision constitutes the primary factor leading to violations of consumer rights. [4]. Another study by Budiman, examined law enforcement against violations of cigarette excise regulations and found that the primary obstacles lie in the aspects of law enforcement and inter-agency coordination. [5].

Furthermore, a study by Kartiko, published in the *Jurnal Bina Mulia Hukum* discusses the liability of business actors toward consumers for the circulation of illegal goods and emphasizes the importance of the State's role in ensuring legal certainty. [6]. An international study by Setiadi and Fibrianti (2025) indicates that the global trade in illegal cigarettes results in economic losses while simultaneously threatening consumer protection, as such products do not comply with regulatory standards. [7] In addition, research by Aulana, explains that the consumption of illegal cigarettes has increased due to lower prices and weak supervision. [8].

Although these studies make significant contributions to understanding the circulation of illegal cigarettes, most of them focus primarily on fiscal law enforcement and state revenue losses, and have not specifically analyzed consumer legal protection as the party directly harmed, particularly within an empirical context in specific regions such as Makassar. Accordingly, there remains a research gap concerning a comprehensive analysis of how consumer legal protection against the circulation of illegal cigarettes is implemented in practice, as well as the effectiveness of the government's role in providing such protection. Therefore, this paper offers novelty (state of the art) by examining consumer legal protection against the circulation of illegal cigarettes through an integrative approach that combines normative analysis with empirical realities in Makassar.

Based on the foregoing description, the research questions proposed are: (1) how is legal protection afforded to consumers against the circulation of illegal cigarettes in Makassar; and (2) what efforts has the government undertaken to prevent the circulation of illegal cigarettes in Makassar. To address these questions, this study employs an empirical legal research method with an empirical juridical approach. This approach is used to analyze the conformity between the applicable legal norms and their implementation in practice through the collection of primary

data in the form of interviews with law enforcement officials and the analysis of secondary data consisting of statutory regulations, legal literature, and official documents related to excise law enforcement.

Systematically, this article is structured into five main sections. The first section is the introduction, which elaborates on the background of the study, outlines the urgency of the issue, reviews relevant previous studies, and formulates the research problems and objectives to be addressed. The second section presents the research methodology, describing in detail the type of research conducted, the legal approach adopted, the sources of data used, and the analytical techniques employed to examine the issues under study.

The third section contains the results and discussion, providing a comprehensive analysis of consumer legal protection in relation to the circulation of illegal cigarettes, including the normative framework and its empirical implementation. This section also examines the government's role and efforts in preventing and combating the distribution of illegal cigarettes, highlighting the challenges encountered and evaluating the effectiveness of existing policies and enforcement mechanisms.

The final section sets out the conclusion, which synthesizes the main research findings, draws theoretical and practical implications, and offers policy recommendations aimed at strengthening consumer protection and improving regulatory and enforcement strategies in addressing the problem of illegal cigarette circulation.

The main argument of this paper is that legal protection for consumers in relation to the circulation of illegal cigarettes has not yet been fully effective, not due to the absence of legal norms, but rather because of weak implementation, supervision, and public legal awareness. Therefore, strengthening consumer legal protection must be undertaken through a systemic approach involving enhanced law enforcement, improved supervision of distribution channels, and increased public legal awareness in order to ensure legal certainty and optimal consumer protection.

## **RESEARCH METHOD**

This study employs an empirical juridical approach, namely a legal research approach that examines law not only as a set of norms but also as actual behavior within society, with the aim of analyzing the implementation of legal protection for consumers in relation to the circulation of illegal cigarettes in Makassar and its conformity with the applicable statutory regulations, particularly Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen and Undang-Undang Nomor 39 Tahun 2007 tentang Cukai. [1], [2]. The specification of this research

is descriptive-analytical in nature, meaning that it provides a systematic description of legal protection for consumers and the government's efforts to prevent the circulation of illegal cigarettes, while simultaneously analyzing the effectiveness of their implementation [9]. The types of data used consist of primary and secondary data. Primary data were obtained through directive interviews with Customs and Excise officers in Makassar, business actors or retail sellers, and consumers of illegal cigarettes. Secondary data were obtained through library research, including primary legal materials in the form of statutory regulations, secondary legal materials such as books and scientific journals, and relevant tertiary legal materials. Data collection techniques were carried out through interviews and document studies. The data obtained were analyzed using a qualitative analysis method through the stages of data collection, data reduction, data presentation, and interpretative conclusion drawing in order to obtain a comprehensive understanding of legal protection for consumers in the circulation of illegal cigarettes and to formulate relevant recommendations.

## **RESULT AND DISCUSSION**

Based on the data obtained by the author from normative legal materials, including the following matters:

### **1. Legal Protection for Consumers Against the Circulation of Illegal Cigarettes in Makassar**

Based on the results of field research conducted through interviews with consumers of illegal cigarettes in the Paropo Indah Complex, Makassar, it was found that the majority of consumers purchase illegal cigarettes due to the significantly lower price compared to legal cigarettes, without considering the health risks or the legality of the product. This indicates a disparity between consumer awareness and the legal rights inherent to them as stipulated in Article 4 of Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen (Consumer Protection Law), which states that consumers are entitled to comfort, security, and safety in the consumption of goods and/or services [1]. This condition reflects that legal protection for consumers of illegal cigarettes has not yet been implemented optimally, particularly in the aspect of preventive protection.

This finding is consistent with research conducted by Akbar in 2025 entitled "*Supervision of Illegal Cigarettes within the Jurisdiction of the Customs and Excise Supervision and Service Office (TMPA) Semarang*", which states that low consumer awareness and the factor of lower prices are the primary causes of the high consumption of illegal cigarettes. Consequently, legal protection has not been effective because consumers do not fully understand their legal rights [10].

The study emphasizes that consumer legal protection does not depend solely on regulations, but also on the level of public legal awareness. This is consistent with the findings of

interviews conducted in this research, in which one 20-year-old consumer stated that he purchased illegal cigarettes because they were inexpensive and that he did not know the difference between legal and illegal cigarettes. This condition indicates the existence of a gap between legal norms and societal practice.

In addition, the results of field observations indicate that illegal cigarettes are sold openly in small kiosks at prices ranging from IDR 15,000 to IDR 20,000, while legal cigarettes are priced between IDR 35,000 and IDR 45,000. This significant price difference constitutes a dominant factor influencing consumer behavior. The following are data on the quantity of illegal cigarettes in Makassar:

**Table 1 The Number of Illegal Cigarettes Circulating in Makassar**

No	Tahun	Illegal Cigarettes (Rod)	Percentage (%)
1	2023	7.500.000	11,1%
2	2024	19.990.000	29,5%
3	2025	40.360.000	59,4%
<b>Total</b>		<b>67.850.000</b>	<b>100%</b>

Source of Data: Customs and Excise Sulbagsel Office, Makassar, 2025.

Based on the table, it can be seen that the circulation of illegal cigarettes in Makassar has increased very significantly over the past three years. This increase indicates that legal protection for consumers has not been effectively implemented, as a large number of illegal products continue to circulate within the community. The results of this study are consistent with research published in the *Jurnal Perspektif Hukum* by Juniardi in 2025, which states that the rise in the circulation of illegal cigarettes reflects weaknesses in the supervision system and the suboptimal implementation of consumer protection law [11].

The study explains that weak supervision places consumers in a vulnerable position, as they lack guarantees of safety regarding the products they consume. In the context of consumer law theory, this condition relates to a shift from the principle of *caveat emptor* (buyer beware) toward the principle of *caveat venditor* (seller beware), whereby responsibility is no longer imposed entirely on consumers, but also on business actors [12]. This is in line with Article 7 of Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, which stipulates that business actors are required to provide accurate, clear, and honest information regarding the condition of goods [1].

However, in practice, illegal cigarette business actors deliberately sell products without excise stamps in order to evade taxes, as revealed by interviews with traders who stated that consumers never protest because the prices are low. This condition indicates the existence of

legal violations that harm both consumers and the State. This finding is also supported by research conducted by Tana in 2024, which states that the circulation of illegal cigarettes not only causes losses to the State but also endangers consumers because such products do not meet health standards [13]. The study emphasizes that consumer legal protection must be carried out through both preventive and repressive approaches simultaneously.

Furthermore, consumer legal protection essentially constitutes part of the State's efforts to guarantee the fundamental rights of consumers, particularly the rights to security, comfort, and safety in the consumption of goods and/or services. This has been affirmed in Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, which stipulates that consumers are entitled to protection from goods that may endanger their health and safety. Accordingly, the existence of illegal cigarettes that do not meet established standards and do not undergo official supervisory processes constitutes a violation of these consumer rights. This condition demonstrates that the State has an obligation to ensure that every product circulating in the market complies with the applicable legal provisions.

Furthermore, from the perspective of legal liability, business actors who trade illegal goods may be subject to administrative as well as criminal sanctions, as they have violated the provisions of the applicable laws and regulations. This is based on the principle of strict liability, under which business actors are responsible for losses suffered by consumers as a result of the products they market, without the need to prove the element of fault. This principle aims to provide maximum protection to consumers, considering that consumers generally occupy a weaker position compared to business actors.

In addition to consumer-related factors, weak supervision by the relevant authorities also constitutes one of the primary causes of the continued circulation of illegal cigarettes. Inadequate oversight provides opportunities for business actors to persist in their illegal activities without fear of legal sanctions. In fact, the government plays a crucial role in conducting guidance, supervision, and law enforcement in order to create legal certainty and protection for consumers. Without effective supervision, the objectives of consumer legal protection cannot be achieved optimally.

In addition to factors originating from consumers, weak supervision by the relevant authorities is also one of the main causes of the continued circulation of illegal cigarettes. Inadequate oversight provides opportunities for business actors to continue their illegal activities without fear of legal sanctions. In fact, the government plays a crucial role in providing guidance, conducting supervision, and enforcing the law in order to create legal certainty and ensure consumer protection. With effective cooperation, it is expected that legal protection for consumers can be realized optimally in accordance with the objectives mandated by statutory regulations. Accordingly, based on the findings of this study and supported by previous research, it can be concluded that legal protection for consumers of

illegal cigarettes in Makassar remains weak, both in terms of supervision, law enforcement, and public legal awareness.

**2. Government Efforts to Prevent the Circulation of Illegal Cigarettes in Makassar**

The government’s efforts to prevent the circulation of illegal cigarettes in Makassar are carried out by the Customs and Excise authorities through routine operations and unannounced inspections, particularly along distribution routes such as ports and land transportation routes. However, the limited number of personnel constitutes a primary obstacle in conducting effective supervision.

The following are data on enforcement actions against illegal cigarettes:

**Table 2. Cases of Enforcement Against Illegal Cigarettes by Customs and Excise of Makassar**

No	Year	Number of Enforcement Cases	Percentage (%)
1	2023	1 (1.500.000 Sticks)	11,1%
2	2024	1 (7.080.000 Sticks)	11,1%
3	2025	7 (Based on social media report)	77,8%
<b>Total</b>		<b>9 Kasus</b>	<b>100%</b>

Source of Data: Customs and Excise Sulbagsel Office, Makassar, 2025

Based on the table, it can be observed that the number of enforcement cases increased significantly in 2025. This indicates an improvement in the government’s performance in carrying out law enforcement. Nevertheless, the findings of this study show that such efforts remain predominantly oriented toward repressive measures and have not yet been fully effective in terms of prevention. This is consistent with research conducted by Maulana in 2023, which states that efforts to combat illegal cigarettes in Indonesia still focus primarily on enforcement actions, while preventive measures have not been implemented optimally [14]. In addition, research conducted by Aprilliya in 2023 states that the successful prevention of illegal cigarette circulation requires inter-agency coordination as well as the use of supervisory technology [15].

The results of this study also indicate that the ultimum remedium system is applied in handling cases of illegal cigarettes, whereby offenders may pay an administrative fine as a substitute for criminal punishment. However, this system is considered not to have provided a maximum deterrent effect. Accordingly, based on the findings of this study and comparisons with previous research, it can be concluded that the government’s efforts to prevent the circulation of illegal cigarettes in Makassar have not yet been optimal, and that

strengthening supervision, enhancing inter-agency coordination, and increasing public education are necessary.

## **CONCLUSION**

Legal protection for consumers of illegal cigarettes in Makassar City remains ineffective due to a gap between normative provisions and empirical implementation, in which consumers continue to be in a vulnerable position as a result of low legal awareness, limited access to information, and the dominance of economic factors that drive the consumption of illegal cigarettes. Consequently, the provisions of Law Number 8 of 1999 concerning Consumer Protection have not been able to provide preventive protection and still tend to be reactive, addressing issues only after losses have occurred. Although the government, through the Directorate General of Customs and Excise, has undertaken various enforcement and educational measures, their effectiveness remains limited by constraints in resources, surveillance technology, and inter-agency coordination, resulting in the continued high circulation of illegal cigarettes and consequent losses for both consumers and the state. These findings indicate the need for a paradigm shift in legal protection from a repressive approach toward a more comprehensive preventive approach through the strengthening of technology-based supervision, the enhancement of public legal literacy, and the integration of cross-sectoral policies. In this way, consumer protection would not merely focus on fiscal law enforcement, but also on ensuring legal certainty, safeguarding public health, and encouraging community participation as part of an effective and sustainable legal protection system.

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