
The Evidence Of Seal Breaking Or Safety Sign In Crime Of Customs

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Abstract

The purpose of this study is to find out the proof of damage to seals or security signs in customs crimes at Gorontalo customs and excise office and to find out what factors influence the proof of damage to seals in customs crimes at Gorontalo customs and excise office. Implementation This research is doctrinal legal research, namely research that provides systematic exposure to regulations governing certain legal categories, analyzes the relationship between regulations, explains areas that experience obstacles, and predicts future developments. The forms of proof of the crime of destroying the seal or security sign in the customs sector can be carried out by importers, exporters, law enforcement officers, entrepreneurs managing customs services, by legal entities, and individuals. Customs crimes can cause losses to the state, so prevention and law enforcement efforts, especially the application of criminal sanctions, are a means that can prevent and eradicate customs crimes. To prevent the occurrence of other forms of criminal acts in the customs sector, especially the destruction of security seals/signs, it is necessary to coordinate and cooperate between government agencies and law enforcement officers as well as the community to carry out supervision in the form of monitoring all customs activities and evaluating and reporting and taking action if there are activities. which violates Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs. For the Government to establish a special prison or detention center for perpetrators of the crime of breaking the security seal in Gorontalo province at the Customs and Excise Office of Gorontalo, to facilitate the investigation process. And without the participation of the community, law enforcement will not be achieved optimally, public awareness to obey the law is very much needed and increases the role model for the community itself

Keywords: *Analysis of Evidence, Vandalism, Crime*

INTRODUCTION

Proof comes from the word "proof" which in the "Big Indonesian Dictionary is defined as something that states the truth of a real event or statement." The proof is an act or deed to prove the truth of an event that has occurred.

According to the opinion of several legal experts, regarding the evidence, among others, as follows: R. Subekti believes that proof is a process to convince the judge of the truth of the arguments or arguments put forward in a dispute. From this opinion, it can be seen that R. Subekti places the urgency on proof is to gain confidence and with this belief, it aims to strengthen the truth of the arguments about the legal facts that are the subject of the problem, so that with the fulfillment of these beliefs the judge will obtain a basis of certainty to make a decision/convict.

Yahya Harahap argues that "Evidence is provisions that contain guidelines and guidelines on ways that are justified by law to prove the guilt that has been charged against the defendant. Evidence is also a provision that regulates the evidence that is justified by law that may be used by judges in proving the defendant's guilt. Customs is an activity related to the service and supervision of the entry and exit of goods in the customs area and the collection of import and export duties. Therefore, it is necessary to supervise and take action if there are forms of actions that violate the laws and regulations, whether carried out by exporters,

importers, law enforcement officers, customs service management entrepreneurs, and legal entities.

If there are forms of actions that can be categorized as criminal acts in the customs sector, it is necessary to have law enforcement efforts through the imposition of criminal sanctions against the perpetrators, considering that customs crimes can cause losses to the nation and state.

Customs has a function as a supervisor on the one hand and a service on the other hand in the traffic of goods leaving or entering or leaving the customs area. In addition to those entrusted by technical agencies, in the form of regulations regarding restrictions and prohibitions as well as trade procedures. On the other hand, customs (in this case the Minister of Finance) are charged with providing incentives for service users by providing exemptions or relief from goods traffic taxes. Two things are very contradictory between the task of supervising and providing facilities, in addition to carrying out the formulation and function of customs and excise policies, drafting customs and excise norms, standards, procedures, and criteria, and implementing customs and excise administration.

The implementation of criminal sanctions through the criminal justice process, namely: investigation, investigation, prosecution, and examination of cases in court. If the perpetrator of a criminal act is legally proven by the applicable laws and regulations, he has committed a criminal act, it is necessary to apply strict criminal sanctions to provide a deterrent effect for the perpetrator and other parties as a form of warning not to commit the same act.

Activities at ports cannot be separated from export-import activities, in the process of these activities problems often arise, one of which is the problem of goods, especially for imported goods whose customs obligations have not been completed and need supervision. With the limited number of employees at the Customs and Excise Service Supervision and Customs Office type c Gorontalo, in the continuous supervision of imported and exported goods, facilities are needed, in the form of seals or security signs used to secure goods as regulated in Law no. 17 of 2006 amendments to Law no. 10 of 1995 concerning Customs, article 78 reads as follows: "Customs and excise officials are authorized to lock, seal, and/or attach the necessary security signs to imported goods whose customs obligations have not been settled and exported goods or other goods that must be controlled according to the law. -This law is in the means of transportation, storage or other places".

One of the imports made by the Indonesian people is in the form of parcels sent from outside the territory of Indonesia. For the entry of imported goods, the state agency that is directly responsible for monitoring goods and assisting in checking incoming shipments is the Directorate General of Customs and Excise (DJBC). This makes the Directorate General of Customs and Excise have an important role in contributing to state revenues. The Directorate General of Customs and Excise (DJBC) contributes to the country's wealth through Import Duties, Excise, and Taxes in the Context of Imports (PDRI).

There are conditions in the use of the seal or the security sign that is attached/attached it is found damaged or missing by the customs and excise officer, but it is very difficult to prove the cause and perpetrator of breaking the seal.

The Gorontalo Orchid Port is one of the main ports in Gorontalo province and is currently the port with the highest export and import activities. The Gorontalo Orchid Port is located in North Gorontalo Regency, Angrek District. Its main function is to serve domestic and international sea transportation activities, transfer of domestic and international sea transportation in large quantities, and as a place of origin for passengers and/or goods, as well as ferry transportation with inter-provincial service coverage. As one of the main ports in Gorontalo province, loading and unloading activities at the Gorontalo Orchid Port are quite high with a large volume of activities. This situation makes the Gorontalo Orchid port a place

where customs crimes are prone to occur, especially in destroying seals or security signs on imported and exported goods.

The government, in this case, the customs and excise office of Gorontalo, often handles cases of breaking seals in small or large quantities. In this criminal crime, it is necessary to process these elements starting from the investigation and even having to go to P21. But in reality, this crime or case only comes to mediation by giving a letter of warning in the form of a statement, and because there are several factors considered for this crime it can take quite a long time and cost a lot to bring it to court. Therefore, this customs crime in terms of damaging the security seal can only reach mediation after a further investigation is carried out on the owner and or control of the goods, means of transportation, containers/packaging, and buildings or other places.

Customs crime is a crime that is very possible to be prevented because customs itself is a supervision of the traffic of goods entering or leaving the customs area. The existence of good supervision of the traffic of goods entering or leaving the customs area will prevent the occurrence of customs crimes. Prevention is also the best step to take in the whole effort to overcome customs crime, with the consideration of avoiding losses and dangers from customs crime. Prevention efforts can be carried out effectively by eliminating or reducing gaps in the factors and conditions that trigger criminal acts.

Following the description in the background of this writing, it can be understood the importance of law enforcement efforts in the customs sector to prevent the occurrence of other forms of customs crime and the importance of applying legal sanctions, especially in criminal cases so that the purpose of the law is to provide legal certainty, benefit and justice for society can be achieved. The problem in writing this article is how to prove the destruction of seals or security signs in a customs crime at the Gorontalo Customs and Excise Office and what factors affect the proof of breaking the seal in a customs crime at the Gorontalo Customs and Excise Office?

RESEARCH METHODS

The type of research used is empirical research which is a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and real behavior carried out through direct observation

RESULTS AND DISCUSSION

Proof of Damage to Seals or Security Signs in Customs Crimes at Gorontalo Customs and Excise Office

Criminal acts in the field of customs are special crimes regulated in-laws outside the Criminal Code (KUHP). This special criminal law is regulated in-laws outside the general criminal law. Deviations from the provisions of criminal law contained in the criminal law are an indicator of whether the criminal law is a special criminal law or not, so it can be said that the special criminal law is a criminal law or criminal law regulated in a separate criminal law.

As a special piece of legislation, the legal basis as well as its enforcement, it can deviate from the general provisions of Book 1 of the Criminal Code, even to the provisions of the procedural law (formal law), the legislation on special crimes can also deviate from Law Number 8 of 1981 concerning the Criminal Procedure Code, the specificity of the legislation on special crimes from the aspect, norms, clearly regulates matters that have not been regulated

in the Criminal Code. special outside the Criminal Code. So the starting point for the specificity of a special statutory regulation can be seen from the actions regulated on the subject of criminal, criminal, and criminal acts.

Proof of the crime of destroying seals or security signs in the customs sector is a means of law enforcement that needs to be applied, considering that customs crimes can cause great losses to the state. Therefore, if it is legally proven in the criminal justice process, the parties who commit a criminal act must be subject to strict sanctions as stipulated in Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs and laws and regulations. other.

Elements of Weighting Criminal Sanctions in Customs Crimes that only disrupt the country's economy (Article 102 B of the Customs Law), Article 102B refers to a crime of smuggling that disrupts the country's economy. In the crime of smuggling, the criminal sanction is imprisonment for a minimum of 1 (one year) and imprisonment for a maximum of 10 (ten) years and a minimum fine of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 5,000,000,000.00 (five billion rupiah). Meanwhile, if the criminal act of smuggling has resulted in disruption of the country's economy, the criminal sanction is increased to a minimum of 5 (five) years in prison and a maximum of 20 (twenty) years in prison, and a minimum fine of Rp. 5,000,000,000.00 (five) billion rupiah) and a maximum of Rp. 100,000,000,000.00 (one hundred billion rupiah).

The explanation section of the Customs Law, it is not explained the meaning of "disruption of the country's economy" as well as the meaning of "state economy". As for the meaning of the state economy in other laws, namely the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (UU Tipikor), it explains what is meant by the state economy. The General Elucidation of the Anti-Corruption Law defines the country's economy as follows.

The state economy is an economic life that is structured as a joint effort based on the principle of kinship or an independent community business based on government policies, both at the central and regional levels following the provisions of applicable laws and regulations aimed at providing benefits, prosperity, and welfare to the people. all people's lives.

What is meant by Article 102C is a criminal act of smuggling (Article 102 and Article 102A) as well as a crime of smuggling that results in disruption of the country's economy (Article 102B) if it is carried out by officials and law enforcement officers, the criminal sanctions plus 1/3 (one third) of the sentence imposed. More specifically, if the crime as regulated in Article 102, Article 102A, and Article 102B is committed by an official or law enforcement officer, the criminal sanction is added by 1/3 (one-third) of the sanction imposed.

Article 103A paragraph (2) is a continuation of Article 103 paragraph (1). Article 103A paragraph (1) is a criminal act of illegal access to the customs computer system. The criminal act of illegally accessing the customs computer system is punishable by a minimum of 1 (one) year and a maximum of 5 (five) years and/or a minimum fine of Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1.000.000.000,00 (one billion rupiah). If the criminal act of illegally accessing the customs computer system results in non-fulfillment of state levies, the criminal sanction is increased to a minimum of 2 (two) years in prison and a maximum of 10 (ten years) imprisonment and/or a minimum fine of Rp.1,000. 00,000,000.00 (one billion rupiah) and a maximum of Rp. 5,000,000,000.00 (five billion rupiah).

In the criminal provisions of the Customs Law, "everyone" is the subject of a criminal act. As for what is meant by Article 1 number 12 of the Customs Law, people are "individuals or legal entities". So the perpetrators of customs crimes are individuals or humans (naturlijk persoon) and legal entities or corporations (Recht persoon).

a. Individual or Human

Humans as criminals, Wirjono Prodjodikoro

In the view of the Criminal Code, the subject of a criminal act is a human being as an individual. This is easily seen in the formulations of criminal acts in the Criminal Code, which show the power of thought as a condition for the subject of the crime, which is also seen in the form of punishment/criminal contained in the articles of the Criminal Code, namely imprisonment, confinement, and fines.

The opinion above shows that the Criminal Code emphasizes the ability to think as a condition imposed criminal responsibility. This matter is regulated in Article 44 paragraph (1) of the Criminal Code below:

Whoever does any act for which he cannot be accounted for because his mind is not perfect or because of illness changes his mind maybe punished.

In addition, based on the opinion above, the Criminal Code also adheres to the teaching that the subject of a crime is a human being, which can be seen from the types of principal penalties in the Criminal Code which is regulated in Article 10 as follows. The penalties are:

- a. Principal penalties:
 - 1e. death penalty
 - 2e. prison sentence
 - 3e. confinement
 - 4e. fines.
- b. Additional penalties:
 - 1e. revocation of certain rights
 - 2e. confiscation of certain goods
 - 3e. announcement of judge's decision

Thus, it is humans who can commit criminal acts (*natuurlijke persoon*).

Along with the development of science, humans are no longer the only subject of criminal law. Apart from humans, corporations can also commit crimes. This has been contained in various laws and regulations outside the Criminal Code (*special criminal law*) regarding corporations as one of the perpetrators of criminal acts other than humans. Likewise, the Customs Law has accepted corporations as one the perpetrators of criminal acts.

The Customs Law also regulates provisions regarding the imposition of criminal sanctions on corporations. The imposition of criminal sanctions against corporations is regulated in Article 108 is as follows.

- (1) In the case of a criminal offense that can be punished this Act is carried out by or on behalf of
of
the name of a legal entity, company or company, association, foundation, or cooperative, criminal charges are addressed and criminal sanctions are imposed on:
 - a. the legal entity, company or company, association, foundation or cooperative; and/or
 - b. those who gave orders to commit the crime or act as a leader or negligent prevention.
- (2) A criminal act according to this law is committed also by or on behalf of a legal entity, company or company, association, foundation or cooperative, if the criminal act is committed by people who are either based on employment or based on other relationships act within the legal entity, company or company, association, foundation or the cooperative without regard to whether the individual has acted individually or jointly.
- (3) If a criminal charge is made against a legal entity, company or company, association, foundation, or cooperative, at the time of prosecution represented by management who can legally be held accountable according to the form of the legal entity concerned.
- (4) For legal entities, companies, or companies, associations, foundations, or cooperatives who are sentenced to a criminal sentence as referred to in this law, the main punishment imposed is always in the form of a maximum fine of Rp. 1,500,000,000.00 (one billion five hundred

million rupiah) if the crime is threatened with imprisonment, without abolishing a fine if the crime is threatened imprisonment and a fine.

First, what is meant by corporations in the Law Customs is a legal entity, company or company, association, foundation, or cooperative. Second, if the corporation is suspected of committing a crime, then the one who is prosecuted and subject to criminal sanctions is the corporation itself and/or corporate management, namely those who provide an order to commit the crime or act as a leader or neglecting prevention. Third, corporate crimes, if a criminal act is committed by persons within the corporation, either individually or jointly based on a working relationship or other relationship acting within the corporate environment. Fourth, if corporations are required to commit a criminal act, the corporation represented by its management can legally be held accountable according to the form of the legal entity concerned. Fifth, if a corporation is convicted, the main punishment against the corporation is fine.

Entrepreneurs and customs service management companies are also the subjects of customs crime which is regulated by a separate article, namely Article 107 of the Customs Law. In the Customs Law the term used is "customs service management company", but Ali Purwito uses the term "customs service management company". Ali Purwito's opinion is following current developments that customs service administrators are not only individuals, namely entrepreneurs, but most of the organizers of customs services are companies. Article 107 of the Customs Law regulates as follows.

Customs service management entrepreneur who manages Customs Declaration on the authorization he receives from importer or exporter, if he commits an act that is punishable by a criminal offense under this Law, the criminal threat shall also apply to him.

If the entrepreneur or customs service management company commits a crime as referred to in the Customs Law, then the criminal provisions in the Customs Law also apply to him. For example, entrepreneurs or customs service management companies falsify invoices received from importers so that the customs notification submitted on behalf of the importer is lower than the customs value. An invoice is a documented trade is often also called an invoice.

Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs regulates the forms of customs crime and its sanctions, in the article on alleged violations of Article 10A Paragraph 8 or Article 105, Law of the Republic of Indonesia Number 17 the Year 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs, namely Persons who release imported goods from the customs area or other places as referred to in paragraph (6), after fulfilling all provisions but have not received approval for release from customs and excise officials, are subject to administrative sanctions in the form of a fine of Rp. 25,000,000.00 (twenty-five million rupiah) or "Everyone who intentionally and without rights opens, removes, or damages locks, seals or security signs that have been installed by customs and excise officials, shall be punished with imprisonment of at least 1 (one) year and a maximum imprisonment of 3 (three) years and/or a minimum fine of Rp. 500,000,000.00 (five hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)".

Law Number 17 of 2006 Amendments to Law Number 10 of 1995 concerning Customs explicitly state that the authority of DJBC is to supervise the traffic of goods entering or leaving the customs area, but considering Indonesia's geographical position as an archipelagic country whose seas are directly bordered by with neighboring countries, it is necessary to supervise the transportation of goods transported by sea within the customs area to avoid smuggling using inter-island transportation, especially for certain goods. Implicitly it can be said that the supervision of the transportation of certain goods within the customs area is an

extension of the authority or an inseparable part of the customs authority as one of the border supervisory agencies.

Article 105. Any person who intentionally and without rights opens removes, or damages locks, seals, or security signs that have been installed by customs and excise officials, shall be punished with imprisonment for a minimum of 1 (one) year and a maximum imprisonment of 3 (three) years.) years and/or a fine of at least Rp. 500,000,000.00 (five hundred million rupiah) and a maximum of Rp. 1.000.000.000,00 (one billion rupiah). Elucidation of Article 105. What is meant by damaging is to physically damage or perform an act that changes the function of a lock, seal, or security sign.

In this regard, the public considers it necessary to give the DGCE the authority to supervise the transportation of certain goods proposed by the relevant technical agencies. Bonded Storage Places (TPB) as a form of incentives in the customs sector that have been provided so far cannot accommodate the demands of foreign investors to be able to conduct auctions, recycling, and other activities due to restrictions on the purpose of TPB only to stockpile imported goods to be processed, exhibited, and/or provided for sale. To avoid the diversion of investment to neighboring countries as well as to attract foreign investors, it is necessary to provide incentives, legal certainty, and business certainty by expanding the function of the TPB. Concerning international trade, the Customs Law ideally can follow international conventions and international customs practice, so it is necessary to make adjustments to the Indonesian customs law by adding or changing provisions following the convention.

Factors Affecting Proof of Damage to Seals in Customs Crimes at the Gorontalo Customs and Excise Office

From the results of the author's research, Customs and Excise Civil Servant Investigators (PPNS) experience obstacles in handling cases of criminal acts such as destroying customs security seals/signs, namely after an arrest, Customs, and Excise PPNS must immediately entrust detainees to the Detention Center or the Police, this is because there is no special detention room at the Gorontalo Customs and Excise Office. If there is an immediate arrest or outside working hours, the suspect is immediately entrusted to the Resort Police because the bureaucracy or the procedure for taking a suspect if you want to be investigated or asked for a statement is easier and does not take a long time compared to being entrusted to the Rutan or Correctional Institution.

In addition, another problem is the lack of experts/PPNS available in terms of very minimal investigations and also the absence of available funds, because the funds provided for the Customs and Excise Crime Investigation Section are submitted for a request to the DJBC Headquarters at the time the SPDP is issued, thus causing the occurrence of criminal acts in the field of Customs, especially in terms of destroying seals or security signs in the customs sector.

The problem of law enforcement tampering with seals or safety marks lies in the factors that may influence it. These factors are as follows:

1. The legal factor itself

In the practice of administering law in the field, there are times when there is a conflict between legal certainty and justice, this is due to the existence of a conception of justice which is an abstract formulation, while legal certainty is a procedure that has been determined normatively. In fact, a policy or action that is not completely based on the law is something that can be justified as long as the policy or action is not against the law.

2. Law Enforcement Factor

Law enforcement is a role model in society, should have certain abilities to follow the aspirations of the community. Law enforcers must also communicate and gain understanding from the target group, in addition to being able to carry out or carry out a role

that is acceptable to them. Except for that, the role model group must be able to take advantage of elements of certain traditional patterns, to stimulate participation from the target group or society. Quantitatively, the number of Civil Servant Investigators (PPNS) is still limited.

In terms of the quality of human resources, the tactics and techniques of investigation are still not optimal to reveal the crime of breaking customs seals or security signs.

According to Adi Amirullah, the process of law enforcement professionalism in terms of skills and intellectual abilities in the field of duty, is indispensable for every law enforcement officer, so that he can carry out his duties quickly, precisely, thoroughly, and fulfills the sense of community justice. Law enforcement factors are also the most prominent factor in the law enforcement process, the main goal is to create an orderly society, create order and balance, with the achievement of order in society, it is hoped that human interests will be protected.

3. Factors of Facilities and Infrastructure

In the opinion of Soerjono Soekanto in terms of the role of facilities and infrastructure that law enforcers should adopt the following line of thought:

- a) The nothing new is true;
- b) Damaged or mis-repaired or rectified;
- c) The under-added;
- d) The jammed-launched;
- e) Which is backward or degenerates-progressed or enhanced.
- f) According to Adi Amirullah, the obstacles in efforts to overcome the crime of breaking the seal or security sign are because the condition of the sealed goods is not equipped with CCTV and the location of the sealed goods is outside the customs area or certain places after obtaining permission from the Head of the Office which includes the area of supervision and service under it, as well as between owners of goods that are sealed only entrusting/renting locations/warehouses to other parties who sometimes do not understand the sanctions for breaking the seals or customs security signs and the condition of goods that are sealed for too long are completed with customs clearance. The solution to this factor is to make a policy for goods that are sealed outside the customs area must have an Information Technology (IT) system such as Closed Circuit Television (CCTV) that can be accessed online.

4. Community Factors.

The public's low legal awareness can become an obstacle to the law enforcement process. This can be seen from the reluctance in the community to play a role in preventing damage to the security seal. This is still happening because people still don't have minimum knowledge about breaking seals.

The solution to this factor is that it is necessary to hold regular socialization related to regulations by explaining the rights and obligations related to securing the seal in customs and what the legal sanctions are if the seal or security sign is damaged.

5. Cultural Factor

Cultural factors, namely a result of work, creativity, and taste based on the human initiative in social life. Cultural factors that are united with community factors are deliberately distinguished because in the discussion spiritual or non-material issues are raised as a system (or subsystem of the social system). The solution to this factor is almost the same as the community factor because it is still closely related to each other, namely by providing direct socialization by speaking politely with people who are directly involved using polite language and digging up information from the parties involved.

These five factors are closely related, because they are the essence of law enforcement, and are also a measure of the effectiveness of law enforcement. According to the Head of Intelligence Subsection of the Customs and Excise Supervision and Customs Service Office Type C Gorontalo Customs, Mr. Adi Amirullah that the most dominant factors affecting Customs and Excise in the effort to overcome the crime of proving the destruction of customs security seals in Gorontalo Province are the facilities factor. , and Factors of Law Enforcement Apparatus.

CONCLUSION

Forms of proof of the crime of destroying seals or security signs in the customs sector can be carried out by importers, exporters, law enforcement officers, entrepreneurs managing customs services, and legal entities. Customs crimes can cause harm to the state, so prevention and law enforcement efforts, especially the application of criminal sanctions are a means that can prevent and eradicate customs crimes and the evidentiary factors in overcoming the crime of destroying customs security seals in Gorontalo province are: First, there is no special detention room at the Customs and Excise Supervision and Service Office, so that if there is an arrest, it is immediately entrusted to the Correctional Institution (Lapas) or Polres closest to the Customs and Excise Service Office. Until now, the suspect has been entrusted to the Resort Police for the reason that if the suspect wants to be examined or summoned, the process of taking the suspect is not so difficult because the procedure at the Resort Police is very easy compared to when the suspect is deposited in the Penitentiary (Rutan) which is very difficult and takes a long time to process. suspect taking. Second, the lack of available funds and the lack of existing Experts because this is the task of the National Police. As well as the relatively small number of investigators, causing a crime in the field of breaking the security seal in the province of Gorontalo.

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