

Legal Perspective on the Practice of Illegal Mobile Phone Trading with Fake IMEI

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Abstract. *The illegal trade of mobile phones with fake IMEI is a serious problem that has an impact on various aspects, including economic, legal, as well as security and social. This study aims to analyze the legal arrangements, impacts, and legal liabilities for those who sell mobile phones with illegal IMEI in Indonesia. The method used in this study is a qualitative approach with normative analysis techniques on laws and regulations, case studies, and studies of previous research. The results of the study show that although regulations related to IMEI control have been implemented through the Telecommunications Law, the ITE Law, and the Regulation of the Minister of Communication and Information, their implementation and supervision are still experiencing obstacles. From an economic perspective, the circulation of illegal devices causes state losses due to the loss of potential taxes and import duties. From a legal perspective, weak supervision of marketplaces and distribution networks of illegal devices hinders the effectiveness of the policies that have been set. In addition, sanctions against illegal IMEI traders still do not provide an optimal deterrent effect. This study recommends strengthening law enforcement, increasing supervision of online marketplaces, and educating the public about the importance of buying devices with official IMEIs. With these steps, it is hoped that the circulation of illegal mobile phones can be suppressed and IMEI regulations can run more effectively.*

Keywords: *Illegal IMEI, Mobile Phone Trading, Legal Regulation, Legal Liability, Deterrent Effect*

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INTRODUCTION

The rapid development of communication technology has had a significant impact on various aspects of people's lives, especially in the use of telecommunication devices such as mobile phones (David, 2021). Mobile phones have become a primary need that supports daily activities, both in the fields of education, business, and social communication. However, along with the increasing demand, various legal problems related to the circulation of illegal mobile phones have also arisen, including those that use fake IMEI (International Mobile Equipment Identity).

IMEI is a unique identification number attached to each mobile telecommunication device and serves to identify the device in the operator's network (Ilarizky & Retnoningtyas, 2011). The government, through various regulations, has stipulated that every mobile phone circulating in the market must have a registered and valid IMEI in accordance with the applicable rules. Unfortunately, there are still many individuals who deliberately trade mobile phones with illegal IMEI for personal gain, without considering the legal impact and consequences for consumers and the state.

The practice of illegal mobile phone trading with fake IMEI causes various problems, both in legal, economic, and security aspects (Saputhanthri & Samarasinghe, 2019). From a legal point

of view, the sale of devices with illegal IMEI can be categorized as a criminal offense because it violates the provisions of the applicable laws and regulations (Totimage et al., 2022). In the economic aspect, this practice is detrimental to the state because it reduces the potential for tax revenue and harms business actors who operate legally. Meanwhile, in terms of security, the use of mobile phones with fake IMEI can potentially be used for crimes that are difficult for law enforcement officials to track.

The Indonesian government has taken various steps to overcome the circulation of illegal mobile phones, one of which is by implementing the National IMEI Database Information System (SIBINA). This system allows mobile operators to block devices that have an unregistered IMEI, so illegal mobile phones cannot be used on Indonesian mobile networks (Salsabila & Aryani, 2022). In addition, the government is also working with law enforcement officials to crack down on perpetrators involved in the illegal device trade.

According to Vander & Balcaen (2006), Despite various efforts that have been made, there are still many obstacles faced in law enforcement against illegal mobile phone traffickers with fake IMEIs. One of the main challenges is the rise of illegal mobile phone distribution networks that are difficult to track because they use various modus operandi to deceive the authorities (Li & Wen, 2022). In addition, the lack of public awareness of the importance of buying devices with an official IMEI is also a factor that supports the continuation of this illegal practice.

From a legal perspective, trading mobile phones with fake IMEI can be sanctioned in accordance with applicable laws and regulations. Some of the regulations that regulate this in Indonesia include the Telecommunications Law, the Information and Electronic Transactions (ITE) Law, and the Regulation of the Minister of Communication and Information Technology on IMEI control (Jasmine et al., 2022). Sanctions that can be imposed on perpetrators range from fines to imprisonment, depending on the level of the violation committed.

Apart from the regulatory side, it is also important to review the role of law enforcement officials in handling this illegal mobile phone trafficking case (Broadhurst, 2006). Law enforcement officials must cooperate with relevant agencies, such as the Ministry of Communication and Information Technology and Customs, to identify and take firm action against actors involved in illegal device trafficking networks. Strict law enforcement is expected to provide a deterrent effect for perpetrators and prevent the circulation of illegal devices in the future.

In addition, the role of the community is also very important in efforts to eradicate the illegal mobile phone trade with fake IMEI. Consumers should be more selective in purchasing telecommunications devices and ensure that the IMEI of the purchased device is officially registered. The government also needs to increase education to the public about the dangers and risks of buying mobile phones with illegal IMEI, including the potential for device blocking and legal threats for parties involved in these illegal transactions.

In the global context, many countries have implemented IMEI control systems as an effort to suppress the circulation of illegal devices (Ponow et al., 2025). Countries such as the United States, the United Kingdom, and India have implemented similar policies to ensure that only devices with official IMEI can be used within their mobile networks. This policy has proven to be effective in reducing the number of illegal devices circulating in the market and providing more protection for consumers (Mann, 2018).

Seeing the phenomenon that occurs in Indonesia, there needs to be synergy between the government, law enforcement officials, business actors, and the community in dealing with this problem. The government needs to strengthen existing regulations and ensure that policy implementation runs well. In addition, the telecommunications industry must also play an active role in educating consumers and ensuring that the devices they sell meet the applicable legal provisions (Au & Kauffman, 2008).

On the other hand, technological developments can also be used to overcome this problem. The use of blockchain technology, for example, can be applied to create a transparent and non-manipulated IMEI recording system. With a more sophisticated system, supervision of the circulation of illegal mobile phones can be carried out more effectively.

Overall, the illegal trade in mobile phones with fake IMEI is a complex problem and requires thorough handling. If left unchecked, this practice not only harms the state and businesses operating legally, but can also threaten national security (Febriansyah et al., 2024). Therefore, concrete steps must be taken immediately to overcome this problem systematically and sustainably.

This study aims to examine the legal perspective on the practice of illegal mobile phone trade with fake IMEI and analyze the effectiveness of regulations that have been implemented in overcoming this problem. By understanding the various aspects of the law involved, it is hoped that this research can provide recommendations that are useful for policymakers, law enforcement officials, and the wider community.

Through this study, it is also hoped that more effective solutions can be found in dealing with the trade in illegal devices so that existing regulations can run optimally. With the right policies, strict law enforcement, and higher public awareness, it is hoped that the practice of illegal mobile phone trading with fake IMEI can be minimized, thereby creating a safer and more reliable telecommunications ecosystem in Indonesia.

METHODS

Research Approach

This study uses a qualitative approach with a juridical-normative method (Noor, 2023). This approach is used to analyze various regulations governing the illegal trade in mobile phones with fake IMEI and to examine their implementation and effectiveness in the legal context in Indonesia.

Types of Research

The type of research used is normative legal studies, which focus on the study of legal documents, regulations, and policies related to illegal IMEI (Totimage et al., 2022). This study also examines how the law is applied in practice through case analysis and interviews with related parties.

Data Sources

This study used two main data sources:

Primary Data

Data was obtained through interviews with sources who are directly related to the issue of illegal IMEI, such as: (1) Law enforcement officials (police, prosecutor's office, and Ministry of Communication and Informatics); (2) Telecommunications regulator authorized in the management of national IMEI; (3) Business actors in the field of mobile phone trading to understand the market mechanism and the impact of regulations on the industry; (4) People or consumers who have bought or experienced the impact of using mobile phones with illegal IMEI.

Secondary Data

Secondary data is obtained from various sources such as: (1) Related laws and regulations, including the Telecommunications Law, the ITE Law, and ministerial regulations related to IMEI control; (2) Legal journals and scientific literature that discuss the legal and economic aspects of the illicit device trade; (3) Report and research documents from government agencies, telecommunications organizations, and related academic research; (4) News and mass media to understand the latest developments in the implementation of the IMEI policy in Indonesia.

Data Collection Techniques

The data collection technique in this study is carried out through several methods (Jogiyanto Hartono, 2018): (1) Library Research, This research will examine various legal documents, regulations, and court decisions related to the case of illegal mobile phone trading with fake IMEI; (2) In-Depth Interview, Interviews are conducted in person or online with resource persons who have expertise or experience in the field of telecommunications law and law enforcement related to the trade of illegal devices; (3) Participatory Observation, Where possible, observations are made on illegal mobile phone trading practices, both in physical and online markets, to understand circulation patterns and methods used by perpetrators.

Data Analysis Techniques

The data obtained will be analyzed using a descriptive qualitative analysis method, with the following steps (Saleh, 2017): (1) Data Reduction, Selecting, filtering, and summarizing relevant data from various sources to focus more on the research topic; (2) Data Presentation, Organizing data in the form of descriptive narratives, tables, or schemas to facilitate the understanding and identification of patterns; (3) Drawing conclusions, Interpreting research findings based on legal theories, applicable regulations, and insights from resource persons to produce conclusions and policy recommendations.

Data Validity

To ensure the validity of the data, this study applies triangulation techniques, namely: (1) Source Triangulation, Comparing data from different sources (legal documents, interviews, news, and previous research); (2) Triangulation Techniques, Using more than one data collection technique (interviews, document studies, and observations); (3) Time Triangulation, Rechecking data at different times to avoid temporal bias.

RESULTS AND DISCUSSION

Regulation on the Sale of Mobile Phones with Illegal IMEI in Indonesia

The illegal trade in mobile phones with fake IMEI is a serious concern for the Indonesian government, given its impact on the economy and public security. To address the circulation of illegal devices, the government has issued various regulations regulating the use and validation of IMEI on telecommunication devices.

Table 1. IMEI Regulations in Indonesia

No	Regulation	Fill in Settings
1	Law Number 36 of 1999 concerning Telecommunications	Prohibiting the use of telecommunication equipment that does not meet the technical standards set by the government.
2	Regulation of the Minister of Communication and Information Technology No. 1 of 2020	Regulate IMEI control, including blocking illegal devices through the National IMEI Database Information System (SIBINA).
3	Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE)	Provide a legal basis for legal action against perpetrators who use electronic systems to manipulate IMEI.
4	Regulation of the Minister of Industry No. 108 of 2020	Requiring mobile phone manufacturers and importers to register the IMEI before the device is on the market.
5	Government Regulation No. 80 of 2019 concerning Trade	Through Electronic Systems Regulating online trade, including the prohibition of the sale of illegal products such as mobile phones with unregistered IMEIs.

In its implementation, the Ministry of Communication and Information Technology (Kominfo) collaborates with the Ministry of Industry, the Ministry of Trade, and mobile operators to operate the IMEI control system. This system allows automatic blocking of devices with illegal IMEIs, making them unusable on national mobile networks. However, even though regulations have been established, the practice of illegal mobile phone trade still occurs, especially through illegal import channels and online marketplaces. The perpetrators use various methods to avoid detection, such as changing or falsifying the device's IMEI number.

Regulations regarding IMEI in Indonesia have been regulated in various regulations, such as the Telecommunications Law No. 36 of 1999, the ITE Law No. 11 of 2008, and the Regulation of the Minister of Communication and Information Technology No. 1 of 2020 concerning IMEI Control (Djarawula et al., 2023). This regulation aims to control the circulation of illegal mobile phones and ensure that devices used by the public have met technical standards and are registered in the National IMEI Database Information System (SIBINA).

The effectiveness of IMEI control in Indonesia, it was found that the policy of blocking the IMEI of illegal devices through SIBINA has been quite effective in reducing the number of unregistered devices. However, there are challenges in its implementation, especially in the aspect of supervision of illegal importers and online marketplaces which are still the main route of circulation of mobile phones with fake IMEIs.

A relevant legal theory in the regulation of illegal IMEI is the legal theory of certainty (Rechtszekerheid) put forward by Gustav Radbruch. According to him, the law must provide certainty so that it can be enforced fairly and not cause uncertainty for the community (Ficsor, 2021). In the context of IMEI regulations, legal certainty has been provided through various existing regulations, but suboptimal implementation still causes violations to occur frequently. This is in line with research (Mike, 2017) which states that weak supervision of regulations leads to rampant violations in the trade of illegal devices.

In addition, based on research (Oktarie et al., 2023) regarding electronic trade regulations, it was found that marketplaces in Indonesia are still not effective in selecting products to be traded. Some platforms still allow the sale of mobile phones with illegal IMEIs, which should have been blocked according to applicable regulations. This shows that coordination between the government and e-commerce service providers still needs to be improved to ensure compliance with IMEI policies.

The Impact of Selling Mobile Phones with Illegal IMEI as an Unlawful Act

The circulation of mobile phones with illegal IMEI has a wide impact that not only harms the country, but also the community. Some of the main impacts caused by this practice include economic, legal, and security and social aspects.

Table 2. The Impact of Mobile Phone Sales with Imei Ilegar

Aspects	Impact
Economics	- Reducing state revenue from the tax and import duty sectors. - Harming the official telecommunications industry due to unfair competition
Law	- Violating applicable telecommunications and trade regulations. - Fueling an increase in cybercrime, such as data theft and fraud.
Safety and Social	- Difficulties law enforcement in tracking crimes using illegal devices. - Increase the risk of people being scammed or buying devices that do not have quality assurance.

People who buy mobile phones with illegal IMEI often do not realize that their devices can be blocked at any time, causing financial losses. In addition, mobile phones with unauthorized IMEI are also at greater risk of experiencing technical problems and not getting after-sales service

from official manufacturers. From a security perspective, illegal IMEI can be used by criminals to avoid tracking by authorities. This is a major challenge in law enforcement, especially in cases of cybercrime and other criminal acts involving telecommunication devices.

The circulation of illegal mobile phones with fake IMEI has a wide impact on economic, legal, and security and social aspects. In the economic aspect, research (Saebani et al., 2023) shows that the trade in illegal devices causes state losses in the form of potential loss of tax and duty revenue. In addition, illegal devices create unfair competition that is detrimental to official business actors who have complied with regulations. From a legal perspective, illegal IMEI traffickers can be charged with various legal provisions, including criminal sanctions based on the Telecommunications Law and the ITE Law. Based on research (WENDI ASMORO, 2024) Regarding law enforcement against cybercrime, it was found that IMEI manipulation falls into the category of criminal acts that can endanger national security, especially in cases of misuse of illegal devices for criminal acts.

Socially, research (Rahayu & Awaluddin, 2024) shows that many consumers are unaware of the risks of buying a device with an illegal IMEI. They are only tempted by cheap prices without understanding that the device can be blocked at any time by the government. The lack of education about the importance of the official IMEI is one of the main factors that cause the illegal device trade to continue to be rampant. From the perspective of legal theory, this case can be related to the utilitarian legal theory developed by Jeremy Bentham. This theory emphasizes that the law must provide the greatest benefit to society. In the context of IMEI control, the policy of blocking illegal devices aims to protect the public interest and prevent greater losses due to the circulation of unauthorized devices. However, the main challenge is to ensure that the public understands the benefits of these regulations and does not feel disadvantaged.

Legal Liability for Actors Selling Mobile Phones with Illegal IMEI

From a legal perspective, illegal mobile phone traders with fake IMEI can be sanctioned based on several laws and regulations. The form of legal liability that can be imposed on the perpetrator can be in the form of criminal, civil, or administrative sanctions, as explained in the following table:

Table 3. The Form of Legal Liability that Can Be Imposed on the Perpetrator can Be in The Form of Criminal Sanctions

Types of Accountability	Legal Basis	Sanctions Applicable
Punishment	Article 47 of the Telecommunications Law No. 36 of 1999	The maximum prison sentence is 6 years and/or a fine of up to IDR 600 million for perpetrators who use devices that are not in accordance with regulations.
	Articles 32 and 35 of ITE Law No. 11 of 2008	The maximum prison sentence is 12 years and/or a fine of up to IDR 12 billion for perpetrators who illegally forge or change the IMEI.
Civil	Civil Code Article 1365 (Unlawful Acts)	Aggrieved consumers can sue the perpetrator to seek compensation.
Administrative	Regulation of the Minister of Trade No. 80 of 2019	Sanctions are in the form of revocation of business licenses and blocking e-commerce accounts that sell devices with illegal IMEIs.

In practice, law enforcement against illegal mobile phone traffickers still faces several obstacles, such as the difficulty of tracking the distribution network of illegal devices that are widespread, especially through online transactions. Therefore, cooperation between the government, law enforcement officials, and the community is needed to increase supervision and prevent the circulation of illegal mobile phones with fake IMEIs. As a preventive measure, the

government continues to increase socialization to the public to be more careful in buying mobile phones and ensure that the IMEI of the device has been registered through the official website of <https://imei.kemenperin.go.id>. In addition, e-commerce platforms are also expected to play a more active role in screening products sold on their platforms so that they do not become a means of circulating illegal devices.

Research (Hutagaol & Bambang, 2016) found that most cases of illegal mobile phone trafficking prosecuted by law enforcement officers are only subject to administrative or civil sanctions, while criminal sanctions are rarely applied. This is due to difficulties in proving criminal elements, especially in cases of IMEI manipulation involving cross-border trade networks. According to the Justice Theory put forward by John Rawls, the law must be enforced fairly without taking sides with certain groups. In the context of law enforcement against illegal IMEI traffickers, it should not only be small traders who are acted upon, but also large networks that are suppliers of illegal devices (Krishnakumar, 2021). However, research (Interview, 2023) shows that law enforcement tends to be stricter against small-scale merchants compared to large networks that have relationships with certain parties.

From the perspective of deterrence theory, developed by Cesare Beccaria, legal sanctions should have a deterrent effect on criminals. However, research (Muhlis et al., 2022) shows that the punishment given to illegal mobile phone traffickers is still relatively light, so it does not provide a significant deterrent effect. As a result, the practice of trading illegal devices still continues. To strengthen law enforcement, there needs to be increased coordination between the government, law enforcement officials, mobile operators, and e-commerce platforms in monitoring the circulation of illegal devices. In addition, education to the public also needs to be strengthened so that they better understand the importance of buying a device with an officially registered IMEI.

CONCLUSION

Based on the results of research and discussion on the legal perspective on the practice of illegal mobile phone trading with fake IMEI, it can be concluded that the circulation of illegal devices is still a serious problem in Indonesia. Although the government has implemented various regulations, such as the Telecommunications Law, the ITE Law, and the Regulation of the Minister of Communication and Information Technology regarding IMEI control, implementation and supervision in the field still face various obstacles. From a legal perspective, the sale of mobile phones with illegal IMEI is an unlawful act, which can be subject to criminal, civil, and administrative sanctions. Perpetrators who manipulate IMEI or trade illegal devices can be charged with punishment under the Telecommunications Law and the ITE Law, with a threat of imprisonment of up to 12 years and a fine of up to billions of rupiah. However, in practice, law enforcement is still not optimal, because many perpetrators are only subject to administrative sanctions without a significant deterrent effect. The illegal trade in mobile phones with fake IMEI has a wide impact on economic, legal, and security and social aspects. From an economic perspective, the circulation of illegal devices causes state losses due to the loss of potential taxes and import duties, as well as harms official business actors who have complied with regulations. From a legal perspective, weak supervision of marketplaces and illegal distribution networks is a major challenge in enforcing the rules. Meanwhile, in terms of security, the use of illegal devices makes it difficult for the authorities to track down crimes that use devices with unregistered IMEIs.

SUGGESTION

From the theoretical study, this study finds that IMEI regulation in Indonesia is in accordance with the principle of legal certainty (*Rechtszekerheid*) as stated by Gustav Radbruch. However, the weak implementation makes this regulation not run effectively. In addition, based on Cesare Beccaria's deterrence theory, the penalties applied to illegal device traffickers are still relatively light, so they are not enough to prevent this practice from continuing. This study also shows that supervision of online marketplaces is still not optimal, as found in previous studies.

There are still many platforms that sell devices with illegal IMEIs, so existing regulations must be strengthened with stricter supervision and cooperation between the government and e-commerce service providers.

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