

***EFFECTIVENESS OF CRIMINAL SANCTIONS FOR VIOLATORS
OF SMOKE-FREE AREAS IN INDONESIA: CHALLENGES AND
RESPONSIVE LAW SOLUTIONS***

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ABSTRACT

Cigarettes pose a significant global health threat, resulting in millions of related deaths annually. Consequently, governments worldwide, including Indonesia, have implemented smoke-free area policies in an effort to mitigate these health concerns. This study analyzes the effectiveness of criminal sanctions imposed on violators of smoke-free areas in Indonesia, while identifying legal challenges in enforcing these regulations and proposing normative solutions within the framework of responsive law. Utilizing a normative legal approach, this study combines both statutory and conceptual methodologies to analyze primary, secondary, and tertiary legal materials through literature studies. It employs a qualitative descriptive analysis method to examine the efficacy of criminal sanctions against violators of smoke-free areas in the context of responsive law. The results indicate that the effectiveness of criminal sanctions to enforce smoke-free areas in Indonesia is hindered by various constraints, including weak law enforcement, limited public awareness, economic conflicts of interest, and inadequate smoking facilities. This study recommends adopting a responsive law approach. This entails strengthening law enforcement, conducting continuous socialization and education programs, establishing special smoking facilities, involving the tobacco industry in health policy-making, and reformulating policies through a participatory approach. By implementing these responsive law solutions, it is anticipated that smoke-free area regulations can be more effectively enforced, garner the support of all parties involved, and contribute to enhanced public health protection from the risks associated with cigarette smoke.

Keyword: Cigarettes; Health; Sanctions; KTAR; Responsive; Indonesia

INTRODUCTION

Cigarettes are one of the most controversial products globally, especially in terms of their impact on public health. In many countries, including Indonesia, the use of cigarettes has become a widespread habit, but also poses major challenges to public health. According to the World Health Organization (WHO), smoking is the leading cause of preventable death, with millions of people dying each year from diseases associated with tobacco use. In addition, the adverse effects of smoking are not only felt by active smokers, but also by passive smokers who are exposed to cigarette smoke in the surrounding environment.¹ To address this problem, governments in various countries have taken serious legal measures to restrict the use of cigarettes in public spaces, one of which is by implementing smoke-free areas (KTAR).

In Indonesia, the implementation of smoke-free areas has been regulated through various laws and regulations, both at the national and regional levels. At the national level, the regulation on smoke-free areas is contained in Law No. 36/2009 on Health, which requires the government to provide designated smoking areas in public places and stipulate smoking bans in several areas, such as health facilities, teaching and learning places, children's playgrounds, and public transportation. Meanwhile, at the local level, several provinces and big cities have also issued more specific local regulations (Perda) to support smoke-free area policies. For example, Yogyakarta, Jakarta and Surabaya have issued local regulations that regulate smoke-free areas with criminal sanctions for violators.

Although there have been legal efforts to restrict the use of smoking in public places, the implementation of these regulations often does not work as intended. One of the main problems is related to the effectiveness of law enforcement and the application of criminal sanctions for violators of smoke-free areas. Weak law enforcement is often a major obstacle in achieving the policy objectives of smoke-free areas. In addition, in some cases, the sanctions given are considered insufficient to provide a deterrent effect so that

¹ M. Teresa Perez-Warnisher, M. del Pilar Carballosa de Miguel, and Luis M. Seijo, "Tobacco Use Worldwide: Legislative Efforts to Curb Consumption," *Annals of Global Health* 85, no. 1 (January 22, 2019): 1–9, <https://doi.org/10.5334/aogh.2417>.

violations continue to occur.² This raises the question of how effective are the criminal sanctions applied in the regulation of smoke-free areas? Are the existing criminal sanctions in accordance with the principles of responsive law that are expected to answer the needs of the community and protect the rights of non-smokers from the dangers of cigarette smoke?

Responsive law itself is a concept that emphasizes the importance of law to not only function as a rigid tool of social control, but also as a means to respond to social dynamics that occur in society³. Responsive law seeks to bridge between the state's interest in enforcing rules and the protection of individual rights⁴. In the context of smoke-free areas, the application of responsive law is expected to provide maximum protection for the community, especially for vulnerable groups such as children, pregnant women, and the elderly, who are most at risk of being adversely affected by cigarette smoke. However, in practice, there is still a gap between the rules made and the reality on the ground, where there are still many people who do not fully understand the importance of complying with smoke-free areas.⁵

One concrete example of the problematic enforcement of smoke-free areas occurs in the city of Yogyakarta, where there are a number of reports of violations that are not followed by firm action from the authorities. In some cases, sanctions that should be applied are not implemented consistently, so that violators feel that they do not get meaningful consequences. This phenomenon does not only occur in Yogyakarta, but also in various other cities in Indonesia, where the application of criminal sanctions for violators of smoke-free areas is still considered weak.

In addition, another challenge that arises is related to the public's perception of smoke-free areas. Many people still think that the regulation is only a formality, so it is

² Rin Agustina A'yuni and Nasrullah Nasrullah, "Implementasi Peraturan Daerah Tentang Kawasan Tanpa Rokok Di Dinas Kesehatan Kota Yogyakarta," *Media of Law and Sharia* 2, no. 2 (April 13, 2021): 172–89, <https://doi.org/10.18196/mls.v2i2.11487>.

³ I Gede Agus Kurniawan, Lourenco de Deus Mau Lulo, and Fradhana Putra Disantara, "IUS Constituendum of Expert Advisor in Commodity Futures Trading: A Legal Certainty," *Jurnal IUS Kajian Hukum Dan Keadilan* 11, no. 1 (April 4, 2023): 31–45, <https://doi.org/10.29303/ius.v11i1.1170>.

⁴ Anak Agung Istri Ari Atu Dewi et al., "The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia," *Sriwijaya Law Review* 6, no. 2 (July 19, 2022): 268–85, <https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>.

⁵ Pungguh Eko Susanto, "Efektifitas Implementasi Peraturan Daerah Kawasan Tanpa Rokok Serta Perankesadaran Dan Ketaatan Hukum Di Wilayah Surabaya," *Jurnal Reformasi Hukum : Cogito Ergo Sum* 7, no. 1 (May 2, 2024): 22–31, <https://doi.org/10.51804/jrhces.v7i1.16620>.

not too important to comply. The low level of legal awareness among the community is one of the main factors affecting the effectiveness of the implementation of smokefree area regulations.⁶ Therefore, in addition to criminal sanctions, a more comprehensive approach is needed in order to increase public awareness of the importance of smoke-free areas, including through education, health campaigns, and community involvement.

This research aims to examine more deeply the problematic application of criminal sanctions for violators of smoke-free areas from the perspective of responsive law. Through a responsive legal review, it is hoped that a better solution can be found in the enforcement of smoke-free area regulations, which does not only focus on the application of sanctions, but also on a more holistic approach in educating the public and protecting individual rights from the dangers of cigarette smoke. This study will also look at how the roles of the government, law enforcement officials, and the community in supporting the effective implementation of smoke-free areas, and explore the potential for improving regulations that are more responsive to the needs of the community.

Thus, this research is not only relevant in the context of law enforcement of smoke-free areas, but also contributes to the development of laws that are more responsive and adaptive to social change. This research is expected to provide comprehensive recommendations for the government and related parties in order to improve the effectiveness of smoke-free areas, both in terms of regulation and implementation in the field.

The debate on the effectiveness of criminal sanctions in enforcing smokefree areas is important to raise, given the detrimental impact of violating this regulation, not only for passive smokers but also for the environment as a whole. This discussion will also include comparisons with other countries that have successfully implemented smoke-free areas, to find best practices that can be adopted in the Indonesian context. Through a more comprehensive and responsive approach, it is hoped that smoke-free areas in Indonesia can be realized more effectively, so that people can enjoy a healthier environment free from exposure to cigarette smoke.

⁶ Afrilyshiva Sisilia Filial and Muhammad Amin Rais, "Analisis Evaluasi Kebijakan Peraturan Desa: Studi Kasus Perdes Bebas Asap Rokok Di Desa Bonebone, Kab. Enrekang," *Development Policy and Management Review (DPMR)* 1, no. 1 (2021): 32–50, <https://doi.org/https://doi.org/https://doi.org/10.61731/dpmr.vi.11913>.

Therefore, this article study on how are criminal sanctions applied to violators of smoke-free areas in Indonesia assessed within the framework of responsive law enforcement?, and what legal challenges hinder the enforcement of smoke-free area regulations, and how can a normative approach within responsive law frameworks enhance their effectiveness?

RESEARCH METHOD

This research uses normative legal research methods, namely research that focuses on the study of written legal norms. Normative legal research aims to understand and analyze existing legal rules and evaluate their application in practice.⁷ In the context of this research, normative legal methods are used to examine the rules related to smoke-free areas, especially those related to criminal sanctions, and to see the extent to which the application of these rules is in line with the principles of responsive law. This research will also analyze how the applicable legal norms reflect the needs of society, especially in terms of protecting the rights of non-smokers from exposure to cigarette smoke.

This research uses two main approaches, namely a statutory approach and a conceptual approach. Statute Approach: This approach aims to analyze laws and regulations related to smoke-free areas, especially those that regulate criminal sanctions for violators. Researchers will examine various related laws and regulations, such as Law No. 36 of 2009 concerning Health, Government Regulations, and Regional Regulations that apply in various regions in Indonesia. Through this approach, researchers will understand the content, substance, and implementation of these regulations, as well as evaluate the effectiveness of the criminal sanctions regulated.

Conceptual Approach: This approach is used to understand legal concepts relevant to the research, such as the concept of responsive law, legal effectiveness, and protection of people's rights against exposure to cigarette smoke. This conceptual approach will help researchers to dig deeper into the theories underlying the regulation of smoke-free areas and the application of criminal sanctions, as well as how responsive law can be a better solution in this context.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, 13th ed. (Jakarta : Kencana Prenada Media Group , 2017).

This research will rely on primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are legal materials that have binding legal force.⁸ This material covers legislation related to smoke-free areas, both at the national and regional levels, such as Law No. 36 of 2009 on Health, Government Regulation No. 109 of 2012 on the Safety of Substances Containing Addictive Substances, as well as various regional regulations (Perda) that regulate smoke-free areas.

Secondary legal materials are legal materials that provide an explanation of primary legal materials. These sources include books, legal journals, scientific articles, and previous research related to smoke-free areas, responsive law, and criminal law enforcement in the context of public health.⁹ This material is important to deepen understanding of the concepts and theories used in the research. Tertiary legal materials are materials that provide further guidance or explanation of primary and secondary legal materials, such as legal dictionaries, legal encyclopedias, and legal indexes. This material will help clarify the terminology or legal concepts used in the research.

In this normative legal research, data collection techniques are carried out through library research. This technique involves collecting and reviewing various sources of primary, secondary, and tertiary legal materials relevant to the research topic.¹⁰ Data collected through literature study includes laws and regulations, official documents, results of previous research, and literature related to smoke-free areas and the application of responsive law. Data collection was carried out by accessing various legal sources available online and in libraries, as well as reviewing relevant court decisions.

The data analysis technique used in this research is descriptive qualitative analysis.¹¹ Descriptive analysis is conducted by describing and explaining the laws and regulations relating to smoke-free areas and the criminal sanctions stipulated therein. In addition, this analysis also includes an evaluation of the application of these regulations in the field as well as the obstacles faced in enforcing the law on smoke-free areas.

In analyzing the data, researchers will examine the suitability of existing regulations with responsive legal principles, as well as assess the effectiveness of these

⁸ E.N Butarbutar, *Metode Penelitian Hukum Langkah-Langkah Untuk Menemukan Kebenaran Dalam Ilmu Hukum* (Bandung : PT Refika Aditama , 2018).

⁹ Ani Purwati, *Metode Penelitian Hukum Teori & Praktek* (Surabaya: CV. Jakad Media Publishing, 2020).

¹⁰ Lexy J Moleong, *Metodologi Penelitian Kualitatif* (Bandung : Remaja Rosdakarya, 2017).

¹¹ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif Dan R&D* (Bandung: Alfabeta, 2020).

regulations in protecting the public from exposure to cigarette smoke. Researchers will also use a normative approach to identify weaknesses in existing regulations and provide recommendations for improvements that are more responsive to community needs. This analysis technique aims to find logical and in-depth conclusions related to the problems of criminal sanctions for violators of smoke-free areas, as well as to provide more effective and responsive legal solutions.

RESEARCH OUTCOME AND DISCUSSION

Criminal Sanctions

The implementation of smoke-free areas (KTAR) in Indonesia is one of the efforts to protect public health from the negative effects of cigarette smoke, especially for passive smokers. Cigarette smoke contains more than 4,000 harmful chemicals that can cause various chronic diseases, such as lung cancer, heart disease, and respiratory problems.¹² Therefore, regulations regarding KTAR aim to create a clean and healthy environment, protect the rights of non-smokers, and reduce the number of diseases caused by cigarette smoke. Despite the existence of clear regulations on KTAR, the application of criminal sanctions for violators of this area often encounters various obstacles that reduce its effectiveness, especially in the context of responsive law enforcement.

Indonesia has issued a number of regulations that support the establishment of smoke-free areas. Law No. 36/2009 on Health is the main foundation that regulates smoke-free areas in certain public places. Article 115 of the Health Law states that local governments are obliged to establish smoke-free areas in several locations, such as health care facilities, places of teaching and learning, children's playgrounds, places of worship, public transportation, and workplaces. In this case, local governments are given the authority to regulate in more detail about KTAR, including sanctions for violators through local regulations (Perda).

In line with the Health Law, the government also issued Government Regulation (PP) No. 109/2012 on the Safety of Materials Containing Addictive Substances in the Form of Tobacco Products for Health. This regulation provides further direction on

¹² Herlina Jusuf, "Rumah Tanpa Asap Rokok," 2019, <https://repository.ung.ac.id/en/abdi/show/1/2125/rumah-tanpa-asap-rokok.html>.

regulating the use of tobacco products, including in public areas. PP No. 109/2012 strengthens the implementation of smoke-free areas by stating that public places designated as smoke-free areas must have clear no-smoking signs and the management must be responsible for the enforcement of this regulation.

Some local governments have also issued local regulations (Perda) to regulate KTAR more specifically. For example, DKI Jakarta's Local Regulation No. 2/2005 on Air Pollution Control regulates smoke-free areas by specifying several locations where smoking is prohibited as well as sanctions for violators. Criminal sanctions are applied in the form of fines or confinement, which aims to provide a deterrent effect to violators. Similarly, the city of Yogyakarta implements Local Regulation No. 2/2017 on Smokefree Areas, which also regulates criminal sanctions in the form of fines for violators of smokefree areas in the region.¹³

However, even though these regulations have been implemented, the effectiveness of law enforcement related to KTAR is often questioned. One of the main obstacles is weak law enforcement, both in terms of law enforcement officials and the community itself. In many cases, law enforcement officials do not impose strict sanctions on KTAR violators.¹⁴ This may be due to a number of factors, including limited enforcement resources, lack of coordination between local governments and authorities, and the low priority of TAR enforcement on the law enforcement agenda.

The effectiveness of responsive law enforcement in this case is also related to community perceptions of the KTAR regulation. Many community members still do not fully understand the importance of this regulation, and even consider it as an unnecessary or unimportant rule to comply with. The low level of public awareness about the dangers of cigarette smoke, both for active and passive smokers, as well as a permissive attitude towards KTAR violations is one of the major obstacles in enforcing the rules¹⁵. In some areas, violations of smoke-free areas are still common even though no-smoking signs

¹³ Winengan Winengan, "Implementasi Kebijakan Kawasan Tanpa Asap Rokok Di Kota Mataram," *Jurnal Ilmu Administrasi: Media Pengembangan Ilmu Dan Praktek Administrasi* 14, no. 1 (June 20, 2017): 1–16, <https://doi.org/10.31113/jia.v14i1.13>.

¹⁴ Bina Yumanto and Paruhum Aurora Sotarduga Hutaauruk, "Ultimum Remedium Dalam Hukum Pidana Pajak: Teori Dan Praktik," *Scientax* 4, no. 1 (December 12, 2022): 107–49, <https://doi.org/10.52869/st.v4i1.259>.

¹⁵ Mohd. Yusuf. Daeng M et al., "Faktor-Faktor Yang Mempengaruhi Efektivitas Penegakan Hukum Dalam Pergaulan Masyarakat," *Pendidikan Dan Konseling (JPDK)* 5, no. 2 (2023): 1933–37, <https://journal.universitaspahlawan.ac.id/index.php/jpdk/article/view/13306/10144>.

have been posted in designated places. For example, in train stations, terminals, and shopping centers, smokers are often found violating the rules without any clear sanctions from the management or law enforcement officials. The implementation of criminal sanctions against KTAR (Kawasan Tanpa Rokok or No-Smoking Areas) violators is often considered ineffective in providing a deterrent effect due to several factors. First, the enforcement of these regulations is inconsistent, leading to a lack of fear among potential violators. Studies and reports indicate that in many regions, local authorities do not strictly impose fines or other penalties on those caught smoking in prohibited areas.¹⁶ For example, research conducted in several cities in Indonesia found that while local governments had established no-smoking zones, enforcement was weak, and violators were rarely sanctioned. This leniency contributes to repeated offenses, as individuals do not perceive a real risk of punishment.

Second, the penalties imposed on violators are often too lenient to serve as an effective deterrent. In many cases, the fines for smoking in restricted areas are relatively low, making them insignificant compared to the cost of purchasing cigarettes. A study published in *The Lancet Public Health* suggests that higher fines and stricter enforcement correlate with greater compliance with no-smoking policies. However, in Indonesia and other countries where KTAR regulations exist, the fines are often symbolic rather than punitive. This situation allows smokers to ignore the rules without significant consequences.¹⁷

Moreover, public awareness and social acceptance of KTAR regulations remain low in many places. Many smokers either do not know about the existence of no-smoking zones or choose to disregard them because they see others doing the same without facing penalties. A study by the Indonesian Ministry of Health revealed that public compliance with KTAR policies was lower in areas where enforcement was lax and where social

¹⁶ Hamidah Qudus and Ella Nurlaella Hadi, "Overview of the Implementation of the No Smoking Area (KTR) Policy in the Indonesian Campus Environment: Literature Review," *Journal of Social Research* 2, no. 6 (May 23, 2023): 1916–28, <https://doi.org/10.55324/josr.v2i6.941>.

¹⁷ Philip DeCicca, Donald Kenkel, and Michael F. Lovenheim, "The Economics of Tobacco Regulation: A Comprehensive Review," *Journal of Economic Literature* 60, no. 3 (September 1, 2022): 883–970, <https://doi.org/10.1257/jel.20201482>.

norms still tolerated smoking in public spaces. Without strong social reinforcement, even strict laws fail to achieve their intended deterrent effect.¹⁸

Additionally, law enforcement agencies often lack the resources or motivation to implement KTAR sanctions effectively. In many cases, authorities prioritize other pressing issues over minor infractions such as smoking in restricted areas. This lack of prioritization means that even when violators are caught, they may be let off with a warning rather than a formal penalty.¹⁹ Comparative studies of tobacco control policies in Southeast Asia indicate that countries with dedicated enforcement units for no-smoking regulations tend to have higher compliance rates. However, in Indonesia, enforcement responsibilities are often divided among multiple agencies, leading to bureaucratic inefficiencies and weak implementation. In addition, the implementation of criminal sanctions against KTAR violators is often considered ineffective in providing a deterrent effect.

In the context of responsive law, which emphasizes the importance of law to function not only as a rigid tool of social control, but also as a means to respond to social dynamics, KTAR enforcement in Indonesia still has much room for improvement. Responsive law emphasizes the need for a more adaptive and participatory approach in rule enforcement, where the law does not only rely on formal sanctions, but also involves the community in its enforcement. The application of laws that are only repressive in nature and rely solely on criminal sanctions is often not effective enough, especially if it is not accompanied by adequate education and socialization efforts to the community.²⁰

In this case, more proactive steps are needed from the government and law enforcement officials to increase public awareness about the importance of smoke-free areas. Health campaigns involving community leaders, academics, and non-governmental organizations can be one of the efforts to educate the public about the dangers of smoking and the importance of maintaining smoke-free areas. In addition, socialization of KTAR

¹⁸ Soumita Ghose et al., "Perception of Tobacco Use in Young Adults in Urban India: A Qualitative Exploration with Relevant Health Policy Analysis," *Ecancermedicalscience* 13, no. 915 (March 28, 2019): 1–18, <https://doi.org/10.3332/ecancer.2019.915>.

¹⁹ Ojak Situmeang and Ahmad Redi, "Mechanism of Law Enforcement against Violations of Reclamation Obligations by Mining Business License Holders," *Jurnal Syntax Transformation* 5, no. 12 (December 19, 2024): 1306–15, <https://doi.org/10.46799/jst.v5i12.1029>.

²⁰ Muhammad Zulfadli, Kasman Abdullah, and Fuad Nur, "Penegakan Hukum Yang Responsif Dan Berkeadilan Sebagai Instrumen Perubahan Sosial Untuk Membentuk Karakter Bangsa," *Prosiding Seminar Nasional 2* (2017), <https://ojs.unm.ac.id/PSN-HSIS/article/view/2751/1493>.

regulations and the criminal sanctions applied also need to be strengthened, both through mass media, social media, and through education in schools.²¹

Responsive law enforcement also requires better coordination between the various parties involved in KTAR implementation. Local governments, law enforcement officials, public place managers, and communities must work together to ensure that smoke-free zone regulations are consistently applied. Managers of public places, such as shopping centers, hospitals, and stations, should be given greater responsibility in enforcing these rules, including imposing administrative sanctions on violators, such as evicting smokers from the area or giving formal warnings. In addition, law enforcement officials should be more active in monitoring the implementation of KTAR and imposing strict sanctions on violators, either in the form of fines or imprisonment.²²

Responsive law enforcement should also consider a more inclusive and participatory approach, where communities are actively involved in the monitoring of KTAR violations. Communities can act as watchdogs and report violations that occur in their neighborhoods to the authorities. Programs such as a violation reporting system through a mobile application or dedicated hotline can be one way to increase community participation in KTAR enforcement.²³

In addition, there needs to be an effort to increase the capacity of law enforcement officials in applying criminal sanctions for KTAR violators. Training for law enforcement officers, such as Satpol PP and police, should be conducted regularly to ensure that they have an adequate understanding of KTAR regulations and are able to apply sanctions appropriately and firmly. The government should also ensure that an adequate budget is allocated for the enforcement of KTAR laws, including for the procurement of necessary facilities and infrastructure, such as no-smoking signs, surveillance cameras, and smoke detectors in public places.²⁴

²¹ Pungguh Eko Susanto, "Efektifitas Implementasi Peraturan Daerah Kawasan Tanpa Rokok Serta Perankesadaran Dan Ketaatan Hukum Di Wilayah Surabaya."

²² Puput Sriwulan Sumaya, "Relevansi Penerapan Teori Hukum Dalam Penegakan Hukum Guna Mewujudkan Nilai Keadilan Sosial," *Jurnal Hukum Responsif* 6, no. 6 (2019): 55–66, <https://jurnal.pancabudi.ac.id/index.php/hukumresponsif/article/view/422>.

²³ Gunawan Santoso et al., "Kajian Penegakan Hukum Di Indonesia Untuk Membentuk Perdamaian Dalam Bhinneka Tunggal Ika Indonesia Abad 21," *Jurnal Pendidikan Transformatif* 2, no. 1 (2023): 210–23, <https://jupetra.org/index.php/jpt/article/view/143>.

²⁴ Darmawan, "Implementasi Fungsi Satuan Polisi Pamong Praja Di Kabupaten Gresik," *Airlangga Development Journal* 2, no. 1 (August 2, 2019): 23–35, <https://doi.org/10.20473/adj.v2i1.18025>.

The effectiveness of the application of criminal sanctions against violators of smoke-free areas in Indonesia is highly dependent on how responsive the law is in addressing social dynamics in the community. A more holistic approach, which focuses not only on criminal sanctions but also on education, community participation, and strengthening inter-agency coordination, needs to be implemented to ensure that KTAR regulations can run effectively and provide maximum protection for public health.²⁵

Challenges

Law enforcement related to smoke-free areas (KTR) in Indonesia faces significant challenges. Despite the existence of regulations governing smoke-free areas, such as Government Regulation (PP) No. 109/2012 on the Safety of Materials Containing Addictive Substances in the form of Tobacco Products for Health, and various regional regulations (Perda) governing KTR, obstacles to their implementation remain large.²⁶ These obstacles include aspects of law enforcement, public awareness, supervision, and economic interests related to the tobacco industry. To improve the effectiveness of regulations, responsive legal solutions are needed that are able to respond to the social, economic and cultural dynamics that exist in society.

1. Weak Law Enforcement

One of the main obstacles in enforcing KTR laws is the weak implementation of regulations in the field. Although some regions have issued regional regulations related to smoke-free areas, law enforcement is often inconsistent. Law enforcers in the field, such as Satpol PP or related officials, are often less assertive in taking action against violations.²⁷ This is due to a variety of factors, including a lack of human resources tasked with monitoring and low awareness of the importance of implementing smoke-free areas. For example, Government Regulation No. 109/2012 clearly stipulates that public places such as schools, health facilities, and children's play areas must be smoke-free. However,

²⁵ Rizky Oktria Ramy and Nursiti, "Penerapan Sanksi Pidana Terhadap Pelanggaran Merokok Di Kawasan Tanpa Rokok," *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana* 2, no. 1 (2018): 208–25, <https://jim.usk.ac.id/pidana/article/view/14193/5945>.

²⁶ Winengan, "Implementasi Kebijakan Kawasan Tanpa Asap Rokok Di Kota Mataram."

²⁷ Pungguh Eko Susanto, "Efektifitas Implementasi Peraturan Daerah Kawasan Tanpa Rokok Serta Perankesadaran Dan Ketaatan Hukum Di Wilayah Surabaya."

in many places, violations of this regulation still occur frequently due to minimal supervision.

Sanctions applied to violators of smoke-free zone regulations often do not have a deterrent effect. Many local regulations only provide administrative sanctions in the form of relatively small fines, which does not create awareness for the community to comply with these regulations. The absence of more severe sanctions, such as imprisonment or revocation of business licenses for violating business actors, also weakens the enforcement of these regulations.²⁸ Therefore, it is necessary to strengthen sanctions and stricter implementation so that the rules can run more effectively.

2. Lack of community awareness

Another significant obstacle to KTR law enforcement is the low level of public awareness about the importance of smoke-free areas. Although KTR regulations have been widely socialized, many individuals still smoke in places that should be smoke-free, such as parks, bus stops, or other public areas.²⁹ This shows that public awareness of the importance of public health, especially in relation to the dangers of secondhand smoke, is still very low.

This low awareness could be due to several factors. First, the deep-rooted smoking culture in Indonesian society, especially among adult men, makes it difficult to enforce the ban on smoking in public places. Second, the lack of comprehensive socialization and education from the government on the dangers of smoking and the importance of complying with KTR regulations. More intensive and sustainable socialization is needed to change the mindset of the community, especially in areas with high smoking rates.³⁰

3. Economic Conflict of Interest

The tobacco industry in Indonesia is one of the largest industries contributing to state revenue through excise taxes. This causes a conflict of interest between public health and the state economy. On the one hand, the government is trying to protect the public

²⁸ Winengan, "Implementasi Kebijakan Kawasan Tanpa Asap Rokok Di Kota Mataram."

²⁹ Amelia Triningtias and Eko Sugiyantio, "Penerapan Kebijakan Kawasan Tanpa Rokok Di Taman Sempur Kota Bogor," *Populis : Jurnal Sosial Dan Humaniora* 5, no. 1 (March 19, 2021): 1–15, <https://doi.org/10.47313/pjsh.v5i1.833>.

³⁰ Finkki Dahliani Dewi Andesline, "Fenomena Sosial Rokok Elektrik Di Kalangan Remaja (Studi Kasus: Komunitas Super Vapor Di Depok, Jawa Barat)" (UIN Syarif Hidayatullah, 2019), <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/45444/1/FINKKI%20DAHLIANI%20DEWI%20ANDES%20FITK.pdf>.

from the dangers of smoking through KTR regulations, but on the other hand, the government also relies on cigarette excise revenue for state revenue. This situation causes the government's commitment to enforcing KTR regulations to often be questioned, because there is an assumption that this policy could harm the cigarette industry, which contributes a lot of revenue to the state.³¹

In addition, the many advertisements and sponsorships from the tobacco industry at various events or public places also affect efforts to enforce smoke-free areas. The tobacco industry often uses its economic power to influence government policies, including the implementation of smoke-free areas.³² For example, cigarette advertisements are still widely found in strategic places despite the regulation that prohibits such advertisements in public places.

4. Lack of Smoking Facilities

Another inhibiting factor is the lack of facilities provided for smokers in public areas. Many public places have designated no-smoking areas, but do not provide special smoking rooms for smokers. This results in smokers being forced to smoke in places that should be smoke-free. This lack of infrastructure is one of the reasons why many smokers feel they have no choice but to smoke in any place.³³

Responsive Legal Solutions to Improve Regulatory Effectiveness

To increase the effectiveness of KTR regulations, a responsive legal approach needs to be applied. Responsive law is a law that not only emphasizes the formal application of rules, but also considers the social and economic dynamics that exist in society³⁴ In the context of no-smoking area enforcement, responsive law can be applied in several ways.

³¹ Achmad Ravie, Havidz Ageng Prakoso, and Haryo Prasodjo, "Dilema Indonesia Dalam Ratifikasi Framework Convention On Tobacco Control Terhadap Industri Rokok Nasional," *REFORMASI* 13, no. 1 (March 17, 2023): 48–63, <https://doi.org/10.33366/rfr.v13i1.3983>.

³² Dadang Supriatna, "Evaluasi Penegakan Peraturan Daerah Kota Bandung Tentang Kawasan Tanpa Asap Rokok Dan Tertib Rokok (Studi Kasus Peraturan Daerah Nomor 109 Tahun 2012 Di Kantor Satuan Polisi Pamong Praja Kota Bandung Provinsi Jawa Barat)," *Jurnal Tatapamong* 1, no. 1 (March 29, 2019): 9–20, <https://doi.org/10.33701/jurnaltatapamong.v1i1.1142>.

³³ Muhammad Ilwan, Minollah Minollah, and Kaharuddin Kaharuddin, "Kebijakan Pemerintah Daerah Kota Mataram Dalam Penerapan Peraturan Daerah Terkait Larangan Merokok Di Tempat Umum," *Journal Kompilasi Hukum* 5, no. 1 (June 30, 2020): 101–11, <https://doi.org/10.29303/jkh.v5i1.40>.

³⁴ Andi Kasmawati, "Konstruksi Hukum Yang Bersumber Dari Realitas Sosial (Suatu Implikasi Terhadap Sosiologikal Jurisprudensi)," *Masalah-Masalah Hukum* 40, no. 1 (2011): 34–38, <https://ejournal.undip.ac.id/index.php/mmh/article/view/13051>.

1. Strengthening Law Enforcement and Sanctions

One solution to overcome the weak law enforcement of KTR is to strengthen the role of law enforcement and increase sanctions for violators. The government needs to provide training to law enforcement officers, such as Satpol PP and health workers, to be more assertive in taking action against violations of KTR regulations. In addition, the sanctions applied to violators need to be aggravated.³⁵ For example, in addition to fines, violators can be required to participate in socialization programs on the dangers of smoking or social work in the field of public health.

In addition, local governments need to make more specific local regulations related to KTR enforcement, by establishing more severe sanctions for businesses that do not provide smoking areas or that violate KTR rules. Firm and consistent enforcement will create a deterrent effect and increase public awareness to comply with the rules.³⁶

2. Continuous Socialization and Education

Public awareness of the importance of smoke-free areas needs to be increased through continuous socialization and education. The government, through the health department and related institutions, needs to conduct intensive campaigns on the dangers of cigarette smoke, especially for passive smokers. This campaign can be conducted in schools, workplaces, and other public places. In addition, the use of mass media, including social media, can also be utilized to disseminate information on the importance of complying with smoke-free area regulations.³⁷

Education about smoke-free areas also needs to be included in the primary education curriculum so that children understand the importance of maintaining health and complying with regulations related to smoke-free areas from an early age. In this way, it is hoped that public awareness of the dangers of smoking and the importance of complying with the rules of non-smoking areas can increase.³⁸

³⁵ Pungguh Eko Susanto, "Efektifitas Implementasi Peraturan Daerah Kawasan Tanpa Rokok Serta Perankesadaran Dan Ketaatan Hukum Di Wilayah Surabaya."

³⁶ Winengan, "Implementasi Kebijakan Kawasan Tanpa Asap Rokok Di Kota Mataram."

³⁷ Triningtias and Sugiyantio, "Penerapan Kebijakan Kawasan Tanpa Rokok Di Taman Sempur Kota Bogor."

³⁸ Kurnia Sandi, "Implementasi Kawasan Tanpa Rokok (Ktr) Pada Sekolah Menengah Atas (SMA) Di Kecamatan Mariso Kota Makassar" (UIN Alauddin Makassar, 2019), https://d1wqtxts1xzle7.cloudfront.net/96909116/198228354-libre.pdf?1673018691=&response-content-disposition=inline%3B+filename%3DImplementasi_Kawasan_Tanpa_Rokok_KTR_pad.pdf&Expires=1737039681&Signature=Pq2843oKVe~dl8lTUrHEC0~WVGQ8j0vcICNhBc4QL0gvxDtLS3QyAR1wFd7d1XiN9DfxI2pXi~11b6H7Cq8BAIjIcPpC5c2mr2Mde2nGrS6lR7bkr4CHliD9sSC9uRsMnLrNfPnIK142ifR3eX5AhPVnHKX7Bd5exR0IIRAGzIWrsPtUUAL5E0ZzQktaOBcRES49oN-

3. Construction of Special Smoking Facilities

To accommodate the needs of smokers in public places, the government needs to encourage the construction of special smoking facilities in areas that have been designated as smoke-free areas. The construction of these special smoking rooms needs to be regulated in regional regulations or government regulations so that smokers do not smoke in any place.³⁹ With this special facility, it is hoped that the no-smoking area regulation can be implemented more effectively because smokers have a special place to smoke without disturbing others.

The effectiveness of criminal sanctions in restricting negative behavior, such as smoking in smoke-free areas (KTAR), has been a persistent challenge in law enforcement. However, evidence from various successful regulatory frameworks worldwide demonstrates that a combination of strict legal enforcement, public education, and community participation can lead to compliance with public health regulations.⁴⁰

For example, Singapore's strict enforcement of its smoking ban policy has resulted in high compliance levels. The country employs a multi-faceted approach that includes heavy fines, consistent enforcement by the National Environment Agency (NEA), and community reporting mechanisms. The implementation of high penalties ranging from SGD 200 for first-time violators to SGD 1,000 for repeat offenses ensures that individuals take the law seriously⁴¹. Moreover, the government promotes a culture of compliance by involving the community in enforcement efforts through a hotline where citizens can report violators. As a result, Singapore has one of the lowest smoking rates in public areas in Southeast Asia.

A similar approach has been applied in New York City, where the introduction of the Smoke-Free Air Act in 2003 led to a significant reduction in smoking rates. The success of this regulation is attributed to a combination of heavy penalties and aggressive

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IGylrH8Qlg__&Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA.

³⁹ Triningtias and Sugiyantio, "Penerapan Kebijakan Kawasan Tanpa Rokok Di Taman Sempur Kota Bogor."

⁴⁰ Fernandus Siregar and Syaiful Asmi Hasibuan, "Effectiveness Of Criminal Sanctions Against Perpetrators Of Narcotics Crime," *Lead Journal of Economy and Administration* 2, no. 2 (November 6, 2023): 81–90, <https://doi.org/10.56403/lejea.v2i2.136>.

⁴¹ Jamie S Y Ho et al., "Association between the Extension of Smoke-Free Legislation and Incident Acute Myocardial Infarctions in Singapore from 2010 to 2019: An Interrupted Time-Series Analysis," *BMJ Global Health* 8, no. 10 (October 10, 2023): 1–9, <https://doi.org/10.1136/bmjgh-2023-012339>.

public awareness campaigns. Violators face fines of up to USD 2,000, and business owners who allow smoking in their establishments risk losing their licenses. The city's Department of Health also collaborates with non-governmental organizations to educate the public on the dangers of secondhand smoke, further reinforcing the effectiveness of legal measures.⁴²

Studies on responsive law enforcement show that legal sanctions alone are insufficient without social reinforcement and structural support. For instance, research on Sweden's tobacco control policies highlights that beyond financial penalties, the country has invested in creating designated smoking areas, strict advertising bans, and extensive public health education. These measures have helped reduce violations while ensuring that smokers have alternatives that do not infringe on the rights of non-smokers.⁴³

In contrast, Indonesia's implementation of KTAR regulations faces challenges due to weak law enforcement and low public awareness. The findings indicate that while laws exist, the lack of consistent enforcement and low penalties fail to create a deterrent effect. Compared to Singapore and New York, where violators face immediate and significant consequences, Indonesia's sanctions are often seen as symbolic rather than punitive. Additionally, the absence of designated smoking areas in many public spaces forces smokers to disregard the rules, further undermining the regulation's effectiveness.⁴⁴

The lessons from Singapore, New York, and Sweden suggest that Indonesia could improve KTAR enforcement by adopting a more comprehensive approach. This includes increasing fines, ensuring consistent law enforcement, establishing designated smoking areas, and launching nationwide education campaigns. Moreover, incorporating a community-based reporting mechanism such as a mobile application for reporting violations could enhance public participation in enforcing the regulations.⁴⁵

⁴² Bridgette E. Garrett et al., "Addressing the Social Determinants of Health to Reduce Tobacco-Related Disparities," *Nicotine & Tobacco Research* 17, no. 8 (August 2015): 892–97, <https://doi.org/10.1093/ntr/ntu266>.

⁴³ Dhiyo Hadi, Erikson Sihotang, and Nyoman Suandika, "Criminal Law Enforcement against Violations of Non-Smoking Areas Based on Law Number 17 of 2023 Concerning Health," *Jurnal Syntax Transformation* 5, no. 9 (September 16, 2024): 1068–73, <https://doi.org/10.46799/jst.v5i9.1003>.

⁴⁴ Eka Sakti Koeswanto, Riswandi Riswandi, and Ahmad Redi, "Implications of Public Trust Due to Weak Law Enforcement Morality," *Edunity: Kajian Ilmu Sosial Dan Pendidikan* 2, no. 1 (January 15, 2023): 78–86, <https://doi.org/10.57096/edunity.v1i05.39>.

⁴⁵ Hadi, Sihotang, and Suandika, "Criminal Law Enforcement against Violations of Non-Smoking Areas Based on Law Number 17 of 2023 Concerning Health."

In conclusion, successful examples from other jurisdictions demonstrate that strict criminal sanctions, combined with public education and social engagement, are necessary to deter negative behavior effectively. Indonesia's struggle with KTAR enforcement highlights the need for a more structured and responsive approach, integrating legal deterrence with broader societal support mechanisms. Without these improvements, the intended deterrent effect of criminal sanctions will remain ineffective, allowing violations to persist.

4. Tobacco Industry Involvement in Health Policy

Addressing the conflict of interest between public health and economic interests also requires a responsive approach. The government needs to involve the tobacco industry in health policy, for example by implementing a corporate social responsibility (CSR) policy that requires the tobacco industry to contribute to tobacco control efforts and smoke-free areas.⁴⁶ The approach of involving the tobacco industry in public health policies, such as requiring corporate social responsibility (CSR) contributions for tobacco control efforts, has already been implemented in some cases. However, its effectiveness remains debatable, as there are concerns about conflicts of interest and the industry's potential influence over public health initiatives. Given this, alternative strategies should be explored to strengthen smoke-free policies while minimizing the risk of industry interference.⁴⁷

One alternative approach is the implementation of a "polluter pays" principle specifically for the tobacco industry. Under this model, tobacco companies would be legally required to contribute to a public health fund based on the volume of their cigarette sales. This fund could then be used exclusively for anti-smoking campaigns, smoking cessation programs, and the construction of designated smoking areas. Unlike voluntary CSR contributions, this approach would ensure a legally binding and transparent financial commitment from the industry without granting them influence over public health policies⁴⁸.

⁴⁶ Syamsul Arifin et al., *Dasar-Dasar Manajemen Kesehatan* (Banjarmasin: Pustaka Banua, 2016).

⁴⁷ Lissy C. Friedman, "Tobacco Industry Use of Corporate Social Responsibility Tactics as a Sword and a Shield on Secondhand Smoke Issues," *Journal of Law, Medicine & Ethics* 37, no. 4 (January 1, 2009): 819–27, <https://doi.org/10.1111/j.1748-720X.2009.00453.x>.

⁴⁸ Anna B Gilmore et al., "Exposing and Addressing Tobacco Industry Conduct in Low-Income and Middle-Income Countries," *The Lancet* 385, no. 9972 (March 2015): 1029–43, [https://doi.org/10.1016/S0140-6736\(15\)60312-9](https://doi.org/10.1016/S0140-6736(15)60312-9).

Another potential measure is the integration of technological solutions to improve enforcement. Many violations of smoke-free zones go unpunished due to weak monitoring and enforcement mechanisms. To address this, cities could adopt automated surveillance systems with AI-powered cameras to detect smoking violations in prohibited areas. This could be supplemented by a public reporting system, where citizens can report violations via mobile apps, helping authorities take swift action⁴⁹.

Additionally, a stronger participatory approach involving communities and local businesses can reinforce smoke-free policies. Community-driven initiatives, such as "Smoke-Free Ambassadors" programs, can empower local volunteers to educate the public and monitor compliance. Businesses operating in smoke-free zones could also be incentivized to actively enforce regulations through tax reductions or other financial benefits.⁵⁰ Finally, harm reduction strategies should be considered alongside punitive measures. Rather than solely focusing on criminal sanctions, authorities could introduce smoking permits that require smokers to register and pay a fee, which would be allocated to health programs. This would discourage smoking while also generating revenue for public health initiatives.⁵¹ By combining regulatory, technological, and community-based approaches, the enforcement of smoke-free zones can be significantly improved. These alternatives provide a more sustainable and effective way to balance economic interests with public health goals without allowing the tobacco industry to exert undue influence over health policies.

5. Policy Reformulation with a Participatory Approach

Responsive legal solutions also involve reformulating KTR policies by involving community participation. In developing policies related to smoke-free areas, the government needs to involve various stakeholders, including the community, industry,

⁴⁹ Al Asyary et al., "Support of the Implementation of a Whistleblowing System for Smoke-Free Environments: A Mixed Methods Approach," *International Journal of Environmental Research and Public Health* 18, no. 23 (November 25, 2021): 12401, <https://doi.org/10.3390/ijerph182312401>.

⁵⁰ Peeraya Suteerangkul et al., "The Effects of Community Participation Program on Smoke-Free Homes in a Suburban Community of Thailand," *Tobacco Induced Diseases* 19, no. May (May 10, 2021): 1–8, <https://doi.org/10.18332/tid/133876>.

⁵¹ Karl Erik Lund and Gunnar Saebo, "Challenges in Legitimizing Further Measures against Smoking in Jurisdictions with Robust Infrastructure for Tobacco Control: How Far Can the Authorities Allow Themselves to Go?," *Harm Reduction Journal* 21, no. 1 (February 7, 2024): 33, <https://doi.org/10.1186/s12954-024-00951-w>.

and health advocacy groups. By involving various parties, it is hoped that the resulting policy can be more accepted by all parties and more effective in its implementation.⁵²

Law enforcement of smoke-free areas in Indonesia faces various obstacles, including weak law enforcement, low public awareness, conflicts of economic interests, and lack of smoking facilities. To overcome these obstacles, responsive legal solutions are needed that consider the social and economic conditions of the community. These solutions include strengthening law enforcement and sanctions, increasing socialization and education, building special smoking facilities, involving the tobacco industry in health policies, and reformulating policies with a participatory approach. With these steps, it is hoped that smoke-free areas can be enforced more effectively, so that public health can be better maintained.

CONCLUSION

The effectiveness of enforcing criminal sanctions against violators of smoke-free areas (KTR) in Indonesia still faces numerous challenges despite the presence of clear legal frameworks, such as Law No. 36/2009 on Health and Government Regulation No. 109/2012, along with specific local regulations. Law enforcement remains weak due to several factors, including limited resources, inadequate inter-agency coordination, a low prioritization of KTR regulation enforcement, and insufficient public awareness. The criminal sanctions currently in place, such as fines, often lack a sufficient deterrent effect due to their relatively low monetary value. To enhance the responsiveness of the law, a more adaptive and participatory approach is necessary. This entails community education, improved institutional coordination, and active involvement of the public in oversight efforts. Thus, the overall effectiveness of criminal sanctions against KTR violators must be strengthened through a more holistic strategy that responds to the social dynamics within the community. The primary obstacles to law enforcement in smoke-free areas in Indonesia include inadequate enforcement, low public awareness, conflicts of interest concerning the tobacco industry, and the absence of designated smoking facilities. To bolster regulatory effectiveness, several responsive legal solutions can be implemented:

⁵² Atrika Iriani, "Implementasi Kebijakan Kawasan Tanpa Rokok (Studi Terhadap Peraturan Daerah Kota Palembang No. 7 Tahun 2009 Tentang Kawasan Tanpa Rokok Pada Instansi Pemerintahan Kota Palembang)" (Universitas Brawijaya, 2018), <https://repository.ub.ac.id/id/eprint/189367/>.

1) Strengthening law enforcement by enhancing training for enforcement personnel and increasing the severity of sanctions; 2) Ongoing socialization and educational initiatives to raise public awareness; 3) Establishing designated smoking areas in public venues; 4) Engaging the tobacco industry in health policy through Corporate Social Responsibility (CSR) initiatives; and 5) Reformulating policies with a participatory approach that involves a variety of stakeholders. This responsive legal framework is expected to better accommodate the social and economic dynamics of society, facilitating more effective enforcement of KTR regulations that are widely accepted. Ultimately, this will enhance public health protections against the dangers of cigarette smoke

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