

Effectiveness of Law Enforcement Against Criminal Acts of Drug Distribution Without a Distribution Permit

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Abstract. The purpose of this research is to find out and analyze law enforcement against the crime of distributing drugs that do not have a distribution permit at this time. To find out and analyze the weaknesses of law enforcement against the crime of distributing drugs that do not have a distribution permit. To find out and analyze the effectiveness of law enforcement against the crime of distributing drugs that do not have a distribution permit in the future.. The method used by the researcher is normative legal approach. The specifications in this study include analytical descriptive. The sources and types of data in this study are secondary data obtained from literature studies. The data is analyzed qualitatively using the theory of legal certainty, the theory of legal systems and the theory of legal effectiveness. Based on the results of the research that law enforcement against criminal acts of distributing drugs without a distribution permit is currently by efforts made to uphold the value system that already exists in the law itself, the BBPOM, namely conducting outreach to the community and schools, especially the younger generation, holding IEC exhibition activities for drug awareness movements, and conducting Information Dissemination (PI) programs regarding drugs. The Weakness of Law Enforcement Against Criminal Acts of Drug Distribution Without a Distribution Permit is the weak system of supervision of the distribution of drugs that do not have a distribution permit. Law enforcement requires strong supervision and control of the community so that there are no drugs that do not have a distribution permit intensively and periodically so as to create a deterrent effect. The Effectiveness of Law Enforcement Against Criminal Acts of Drug Distribution Without a Distribution Permit in the Future is not yet effective enough and still contradicts the Regulation of the Food and Drug

Supervisory Agency Number 12 of 2018 concerning the Organization and Work Procedures of the Technical Implementation Unit within the Food and Drug Supervisory Agency. It can be seen in the field that there are still many business actors who sell syrup drugs that are prohibited by the government, because the Food and Drug Supervisory Agency, the inspection sub-section, should enforce the law in the field, must go directly to the field to inspect every business actor who sells syrup drugs in the city of Jakarta so that they can carry out their duties and responsibilities as law enforcers.

Keywords: Criminal; Distribution; Effectiveness.

1. Introduction

In the current era of globalization and free trade, many kinds of products/services have emerged that are marketed to consumers in the country, either through promotions, advertisements, or direct offers. If not careful in choosing the desired product/service, consumers will only become objects of exploitation by irresponsible business actors. Without realizing it, consumers simply accept the goods/services they consume.¹

Health is the right of every citizen and is one of the elements of general welfare of the national goals of the Indonesian nation as stated in the 4th paragraph of the Preamble to the 1945 Constitution. Therefore, various programs and policies in the health sector should have non-discriminatory, participatory and sustainable principles in order to ensure the availability of quality human resources with optimal health levels.²

The 1945 Constitution mandates that health is a human right. Article 28H states that everyone has the right to live in physical and spiritual prosperity, to have a place to live and have a good and healthy living environment and has the right to receive health services. Furthermore, Article 34 paragraph (3) states that the State is responsible for providing adequate health care facilities and public service facilities. This shows that the government is obliged to make the sick healthy and strive to keep the healthy healthy.

Crime is a reality in community life that deserves special attention. This is not only because the types of criminal acts continue to develop over time, but are criminal in nature. These actions have also caused deep unrest and disrupted the security and order of community life.³

¹Happy Susanto, 2008, *Consumer Rights If Harmed*, Transmedia Pustaka, Jakarta, p. 1.

²Rahmat Alyakin Dachi, 2017, *Health Policy Process and Analysis*, Budi Utama, Yogyakarta, p. 1.

³Vidya Khairunnisa and Andri Winjaya Laksana, 2023, *Implementation of Criminal Supervision by the Prosecutor's Office Based on Legal Certainty*, *Ratio Legis Journal (RLJ)*, Volume 2 No.3, Unissula, p. 1347, <https://jurnal.unissula.ac.id/index.php/rlj/article/view/33219/9211>

Based on Law Number 36 of 2009 concerning Health, it states that health is a healthy state, both physically, mentally, spiritually and socially that allows everyone to live productively socially and economically. Thus, health is not only a human right, but also an investment.⁴

Consumers cannot know whether the product is dangerous or not, which looks good from the outside, cannot be known whether it contains certain defects either due to errors in the production process or is made of materials that are not suitable for human needs. A product is called a defective (dangerous) product, if the product is not safe to use, does not meet certain safety requirements as expected by people, taking into account various circumstances, especially the appearance of the product, the use that should be expected from the product and when the product is distributed.⁵

Legally, the rules regarding consumer protection are contained in UUPK Article 1 paragraph (1), which in essence explains that consumer protection is all efforts made to provide consumer protection by guaranteeing legal certainty.³ Thus, consumer protection can be interpreted as efforts to realize protection for consumers by guaranteeing certainty in fulfilling consumer rights. Therefore, consumer protection law is known as a law that regulates various efforts to provide guarantees in realizing legal protection related to consumer interests.

The relationship between consumers and producers has been regulated in Law Number. 8 of 1999 concerning Consumer Protection or often referred to as UUPK. In the Law, there are terms for business actors and consumers. Every individual, individual or business entity that is a legal entity or not a legal entity established, domiciled or running its business activities in the territory of Indonesia either alone or together by making agreements in organizing business activities in various economic fields is called a business actor. As for every individual who uses services and/or goods provided and available in the community either for the needs of family, themselves, other living things or other people and not for trading, then that is what is called a consumer.

Based on the problems above, the objectives of this study are as follows: To determine and analyze law enforcement against the crime of distributing drugs that do not have a distribution permit at this time. To determine and analyze the weaknesses of law enforcement against the crime of distributing drugs that do not have a distribution permit. To determine and analyze the effectiveness of law enforcement against the crime of distributing drugs that do not have a distribution permit in the future.

2. Research methods

The method used by the researcher is normative legal approach and the specifications in this study include analytical descriptive. the sources and types of

⁴Muhamad Sadi Is, 2017, Health Ethics and Law, Balebat Dedication Prima, Jakarta, p. 7.

⁵Az. Nasution, 1995, Consumers and the Law, Sinar Harapan Library, Jakarta, pp. 172-173.

data in this study are secondary data obtained from literature studies. The data is analyzed qualitatively. using the theory of legal certainty, the theory of legal systems and the theory of legal effectiveness.

3. Results and Discussion

3.1. Law Enforcement Against Criminal Offenses in the Distribution of Drugs Without a Distribution Permit Currently.

Social policy is basically a rational policy or effort with criminal law in essence also being part of law enforcement efforts. Therefore, it is often said that criminal law policy is part of legal policy.⁶

Law functions as a protector of human interests. Law enforcement requires the creation of legal certainty. In community life, it is certain to expect the creation of legal certainty in order to become an orderly, safe and peaceful situation. Because, the law should protect the rights and obligations of every individual in reality to obtain legal justice.

Nowadays, the circulation of illegal drugs is rampant, one example of which is the circulation of drugs that have not received a distribution permit. The rampant circulation of illegal drugs in Indonesia proves that Indonesia's defenses are still weak from the onslaught of things that endanger society. Allowing the circulation of illegal drugs is the same as allowing society to face various bad risks, allowing crime to thrive in society, and lowering the trust, dignity, and self-esteem of the nation in the eyes of the international world. This also happens because of factors related to the opportunity for crime to occur, both minor and major violations.

The public still ignores the ban for personal gain. They still distribute illegal drugs in any way. The problem of illegal drugs is a serious problem in the world of health. Actually, the circulation of illegal drugs has often occurred every year. But only recently have the public found out about it. The availability of information about illegal drugs is due to lack of information and lack of references about the circulation of illegal drugs. Lack of information about illegal drugs also makes consumers fall into it, for people who distribute illegal drugs, lack of information about the consequences caused by the circulation of illegal drugs and the sanctions they receive if they distribute illegal drugs also affects this action.

Law enforcement related to the distribution of illegal drugs, the legal rules that are usually applied by law enforcement officers are Law Number 36 of 2009 concerning Health and Law Number 8 of 1999 concerning consumer protection. Then, through BPOM Regulation Number 26 of 2017 concerning the organization and work procedures of BPOM, the Food and Drug Supervisory Agency (BPOM) becomes the spearhead of the government in terms of fostering and supervising distribution, quality and licensing. However, BPOM does not have the authority

⁶Barda Nawawi Arief, 2003, Anthology of Criminal Law Policy, Citra Aditya Bakti, Bandung, p. 56.

to prosecute distributors, for that the Police and BPOM are cooperating in the framework of eradicating illegal drugs.⁷

A criminal act is an act that is prohibited and is subject to criminal penalties, where the definition of an act here includes not only active legal acts but also passive acts (not doing something that is actually required by law). Strafstelstel (punishment system) is a positive legal regulation that determines the type of sanctions for violations, the severity of the sanctions, the length of time the sanctions are felt by the violator and the method and place where the sanctions are implemented.⁸

Law enforcement against criminal acts of distributing drugs without a distribution permit is currently by efforts made to enforce the value system that already exists in the law itself, the BBPOM, namely conducting socialization to the community and schools, especially the younger generation, creating IEC exhibition activities for drug awareness movements, and conducting Information Dissemination (PI) programs regarding drugs. The hope is to prevent and overcome illegal drug dealers, especially in Jakarta.

3.2. Weaknesses in Law Enforcement Against Criminal Offenses in the Distribution of Drugs Without a Distribution Permit

Law enforcers have a strategic role in determining the quality of law enforcement in a country. In Indonesia, the performance of law enforcers is often considered less than satisfactory. This public dissatisfaction is a sign of weak law enforcement in Indonesia. The law, which is considered a way to seek justice for the community, actually provides a sense of injustice.

One of the causes of weak law enforcement in Indonesia is the quality of law enforcers. The low morality results in a lack of professionalism and unwillingness on the part of law enforcers. This low morality is what causes law enforcement in Indonesia to be weak. Law enforcement will be strong and respected if law enforcers act professionally, honestly and apply the principles of good governance.

The existence of Law Number 8 of 1981 in the legal life in Indonesia has ushered in a new era, namely the era of the revival of national law that prioritizes the protection of the suspect's human rights in the mechanism of the criminal justice system. Protection of the suspect's human rights is expected to be implemented since the suspect was arrested, detained, charged and tried in court. In addition to the protection of the suspect's human rights, there is also the hope that law enforcement based on the law will provide free and responsible judicial power to judges in examining and deciding a criminal case. The above hope can only be realized if the orientation of law enforcement is based on a system approach.

⁷ Angling Adhitya Purbaya, Monitor the circulation of illegal products, BPOM monitors products sold online, <http://m.detik.com/news/berita-jawa-tengah/d-4289687/awasi-peredaran-produk-ilegalbpom-pantau-produk-online>,

⁸ Marlina, 2016, Penitentiary Law, II, Refika Aditama, Bandung

Human needs are unlimited and always limited by the availability of resources to satisfy them.⁹ Social policy is basically a rational policy or effort with criminal law in essence also being part of law enforcement efforts. Therefore, it is often said that criminal law policy is part of legal policy.¹⁰

The better the existing legal regulations, the more likely it is to be enforced. Conversely, the worse the legal regulations, the more difficult it is to enforce. Law enforcement itself comes from the community and aims to achieve peace in society. In this case, what is important is the legal awareness in the community, the higher the legal awareness of the community, the better the law enforcement. Conversely, the lower the level of legal awareness of the community, the more difficult it is to implement good law enforcement. What is meant by legal awareness includes knowledge of the law, appreciation of the function of the law, obedience to the law.

Thus, business actors in running their business selling medicines or pharmaceutical preparations must synergize with the regulations made by the Government. The important role of business actors in overcoming the circulation of illegal drugs cannot be carried out by one party alone in this case by the Food and Drug Administration (BPOM), the concern of business actors and the community in preventing the circulation of drugs that do not have a distribution permit is a form of awareness and obedience to the law.

Order and security in society will be maintained if each member of society obeys the regulations (norms) that exist in that society. These regulations are issued by the body that has power in that society which is called the Government. But even though these regulations have been issued, there are still people who violate these regulations. For example, in the case of distributing drugs that do not have a distribution permit in the health sector which is contrary to Law Number 36 of 2009 concerning Health. Against perpetrators who distribute drugs that do not have a distribution permit, of course, they will be subject to punishment in accordance with their actions that are contrary to the law.¹¹

The Weakness of Law Enforcement Against Criminal Acts of Drug Distribution Without a Distribution Permit is the weak system of supervision of the distribution of drugs that do not have a distribution permit. Law enforcement requires strong supervision and control of the community so that there are no drugs that do not have a distribution permit intensively and periodically so as to create a deterrent effect. In fact, this rarely happens, as a result there are still drugs that do not have a distribution permit carried out by unscrupulous sellers. The reason is because law enforcers are only able to dismantle the downstream

⁹Fakhrul Wildan and Gunarto, 2019, Law Enforcement On Agents Assignment/Transfer Tube Gas Subsidies To Non LPG Subsidies. In Jurnal Daulat Hukum, Volume 2 Issue 3, Unissula

¹⁰Barda Nawawi Arief, 2003, Anthology of Criminal Law Policy, Citra Aditya Bakti, p. 56

¹¹ Kansil, CST. 2002. Introduction to Indonesian Law and Legal System, Balai Pustaka, Jakarta, p. 257

side or the perpetrators of the distribution or small fry, have not been able to cover the upstream or those who produce drugs that do not have a distribution permit, the lack of information related to the distribution of drugs that do not have a distribution permit makes it difficult for law enforcement officers to eradicate the distribution of drugs that do not have a distribution permit. the punishment is still light, the average sentence imposed on perpetrators of drugs that do not have a distribution permit is relatively light, namely only a suspended sentence.

3.3. Effectiveness of Law Enforcement Against Criminal Acts of Distribution of Drugs Without Distribution Permits in the Future.

Health is an important aspect in people's lives, the government creates adequate health development as an improvement in the poor health levels for years.¹²The police are the first institution that must be passed through in the criminal justice process, therefore the police have the authority to conduct investigations, inquiries, detentions, confiscations, until the alleged crime is discovered.¹³

SeeIn relation to the issue of legal effectiveness, the identification of law is not only with the element of external coercion, but also with the court process. The threat of coercion is also an absolute element so that a rule can be categorized as law, so of course this element of coercion is also closely related to the effectiveness or ineffectiveness of a legal provision or rule. If a legal rule is ineffective, one question that can arise is, what happens to the threat of coercion? Perhaps the ineffectiveness of the law is due to the threat of coercion being not severe enough; it may also be due to the threat of coercion not being adequately communicated to the community.¹⁴

Elegal effectiveness means discussing the power of the law in regulating and/or inviting the public to obey the law. The law can be effective if the factors that influence the law can function optimally. The assessment of the effectiveness or otherwise of a prevailing law and regulation can be seen from the behavior of the public. A law or regulation will be effective if the public behaves in accordance with what is expected or desired by the law or regulation and achieves the desired goals, then the effectiveness of the law or regulation has been achieved.

If we look at the effectiveness in the legal field, Achmad Ali¹⁵argues that when we want to know the extent of the effectiveness of the law, then we must first

¹²Denny Kusuma, Widayati and Siti Rodhiyah Dwi Istianah, 2019, The Role Of Health Department Of Blora Regency In The Implementation Of Bpjs Based On Act No. 40 Of 2004 On The National Social Security System To Improve Health Service To The Society, in the Journal of Sovereign Law, Volume 2 Issue 4, Unissula

¹³Lilik Purwoko and Siti Rodhiyah Dwi Istinah, 2020, Role of Police in Respecting Crimes on Prisoners Who Get Assimilation & Conditioned Delivery Due to Plague of Covid-19, in Jurnal Daulat Hukum, Volume 3 Issue 4, Unissula

¹⁴Achmad Ali, 1998, Exploring Empirical Studies of Law, Yarsif Watampone, Jakarta, p.186

¹⁵Achmad Ali, 2010, Uncovering Legal Theory and Judicial Theory. Kencana, Jakarta, p. 375.

be able to measure "the extent to which the rule of law is obeyed or not obeyed". Furthermore, Achmad Ali also stated that in general the factors that greatly influence the effectiveness of a legislation are the professionalism and optimal implementation of the role, authority and function of law enforcers, both in explaining the tasks assigned to them and in enforcing the legislation.

The analysis conducted in this study is to see the picture of the effectiveness of criminal law enforcement in the field of medicine which is theoretically influenced by several legal factors. These factors are the Legal Substance, Legal Structure, and Legal Culture factors, each of which is used in this study.

a. Legal substance

The existing legal substance that applies in enforcing the law in the field of drugs has a positive value. This means that in terms of legal completeness, systematics, and legal procedures in enforcing criminal law on drugs and food in Indonesia, it is sufficient and appropriate. So that this legal substance factor is not the main factor that causes the effectiveness of health law enforcement in the field of drugs and food in Indonesia to be still weak.

b. Legal Structure

That the legal structure in general has been implemented well, from officers, assignments, equipment and infrastructure used in enforcing health laws in the field of drugs.

The existing legal structure, both in terms of officers, namely human resources in enforcing the law, and also in terms of equipment and infrastructure, is considered positive and appropriate for enforcing health laws in the field of drugs and food.

c. Legal Culture

Legal Culture is a legal factor that has a negative value in enforcing health laws in the field of drugs and food, both in terms of public awareness, public discipline, and public motivation in complying with laws and regulations on drugs and food.

Legal culture in health criminal law matters in the field of medicine is still low and has a negative value. Both from public awareness, motivation and public discipline in implementing the legal regulations regarding medicine and food that apply in Indonesia. So this legal culture is the main factor causing the ineffectiveness of health law enforcement in the field of medicine and food in Indonesia.

With the weakness of one of the legal system factors that affect the effectiveness of the law, namely the legal culture factor, then overall it can be said that the effectiveness of health law enforcement in the field of drugs and food in Indonesia cannot be effective. To improve the effectiveness of health law enforcement in the field of drugs and food in Indonesia, of course, it can be done by prioritizing the improvement of the legal culture of the community in the

health sector. It is necessary to carry out consistent and continuous health law counseling and education from the government to the community. The role of the Certification and Consumer Information Services Sector that already exists at the Indonesian POM Agency needs to be strengthened and its service quality improved, in addition to collaborating with other government agencies, such as the Health Service and the local government to conduct counseling in order to increase awareness of health law culture in the community.

The Effectiveness of Law Enforcement Against Criminal Acts of Drug Distribution Without Distribution Permits in the Future is not yet effective enough and still contradicts the Regulation of the Food and Drug Supervisory Agency Number 12 of 2018 concerning the Organization and Work Procedures of the Technical Implementation Unit within the Food and Drug Supervisory Agency. It can be seen in the field that there are still many business actors who sell syrup drugs that are prohibited by the government, because the Food and Drug Supervisory Agency, the inspection sub-section, should enforce the law in the field, must go directly to the field to inspect every business actor who sells syrup drugs in the city of Jakarta so that they can carry out their duties and responsibilities as law enforcers.

4. Conclusion

Law enforcement against criminal acts of distributing drugs without a distribution permit is currently by Efforts made to uphold the value system that already exists in the law itself, the BBPOM, namely conducting outreach to the community and schools, especially the younger generation, holding IEC exhibition activities for drug awareness movements, and conducting Information Dissemination (PI) programs regarding drugs. The Weakness of Law Enforcement Against Criminal Acts of Drug Distribution Without a Distribution Permit is the weak system of supervision of the distribution of drugs that do not have a distribution permit. Law enforcement requires strong supervision and control of the community so that there are no drugs that do not have a distribution permit intensively and periodically so as to create a deterrent effect. The Effectiveness of Law Enforcement Against Criminal Acts of Drug Distribution Without a Distribution Permit in the Future is not yet effective enough and still contradicts the Regulation of the Food and Drug Supervisory Agency Number 12 of 2018 concerning the Organization and Work Procedures of the Technical Implementation Unit within the Food and Drug Supervisory Agency. It can be seen in the field that there are still many business actors who sell syrup drugs that are prohibited by the government, because the Food and Drug Supervisory Agency, the inspection sub-section, should enforce the law in the field, must go directly to the field to inspect every business actor who sells syrup drugs in the city of Jakarta so that they can carry out their duties and responsibilities as law enforcers.

Based on the results and conclusions of the research described above, the researcher proposes the following suggestions to civil servant investigators at the Jakarta Food and Drug Monitoring Center, the Police, or agencies involved in the crime of distributing drugs without a distribution permit, the Government, and traders and the community must sit together to make an agreement and understanding to eradicate the distribution of drugs without a distribution permit or illegal.

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