



Problems of Law Enforcement Regarding Criminal Acts of Abuse of Dangerous Food Production

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Abstract: This research aims to determine the factors that hinder law enforcement against criminal acts of misuse of dangerous food production in Gorontalo Province. The type of research used is empirical legal research with a qualitative approach. The results of this research show that the problems of law enforcement regarding criminal acts of misuse of dangerous food production in Gorontalo Province include: *first*, internal factors caused by facilities and facilities, the personality and mentality of personnel, the quality of operational funding personnel, and the difficulty of uncovering evidence. *Second*, external factors caused by leaking information about raids to perpetrators, lack of awareness in fulfilling their rights and responsibilities as business actors, limited employment opportunities, lack of community participation, and public legal awareness.

Keywords: Problematics; Law enforcement; Criminal act; Food Production.

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1. Introduction

Food is the main need in human life. Because, from food, humans get various substances needed by the body to work optimally. The food eaten does not have to have an attractive shape, but has nutritional value and is safe in the sense that it does not contain chemicals that are harmful to the body's health. For this reason, it is necessary to provide security in the food sector so that people avoid consuming food that is dangerous to health. Food is everything that comes from biological sources, agricultural products, plantations, forestry, fisheries, animal husbandry, waters, and water, both processed and unprocessed, intended as food or drink for human consumption, including food additives, food raw materials, and other ingredients used in the process of preparing, processing and/or making food or drinks.¹

Criminal acts or what is usually called crime are a societal phenomenon because they cannot be separated from time and space. According to Van Hamel, a criminal act is a person's behavior (*menselijke gedraging*) that is formulated in the law (*wet*), which is against the law, which deserves to be punished (*starfwaarding*), and is carried out with a mistake.² In a country's government, laws are regulated and sanctions are given for violating these laws. Law is a whole collection of rules or rules in a common life whose implementation is enforced using sanctions.³

The development of food technology has now reached a condition where so many raw materials and additional materials are used to produce processed products. Moreover, nowadays there are a lot of dangerous foods and drinks being sold because food products are often found that are mixed with ingredients that are harmful to health, such as found in tofu, wet noodles, and so on.⁴

This is also exacerbated by various types of food additives originating from chemical compound products and their derivatives such as formaldehyde, borax, textile dyes, and others without paying attention to the dosage or threshold as well as the dangers posed by these chemicals consumers.⁵

Even though the use of chemicals in food is regulated in the Republic of Indonesia Minister of Health Regulation No. 722/Menkes/Per/IX/1988 and SNI 01-354-1994 concerning food additives. The government has set limits for use in various food products, namely a maximum of 1,000 mg/kg.

In the production process, business actors or producers are often dishonest and cheat or defraud consumers. The level of public knowledge regarding food products that

¹ Article 1 Paragraph (1) Law Number 18 of 2012 concerning Food

² Indra Feri Dalimunthe, Fenty U. Puluhalawa, dan Fence M. Wantu, "Desain Penuntutan Hukum Pidana Dalam Sistem Peradilan Pidana Di Masa Yang Akan Datang," *Philosophia Law Review* 1, no. 1 (31 Mei 2021): 1-21, <https://doi.org/10.56591/pilar.v1i1.10536>.

³ Sudikno Mertokusumo, *Mengenal Hukum* (Yogyakarta: Liberty, 2003)., 40

⁴ Afrianti Leni, *Pengawet Makanan Alami dan sintesis* (Bandung: Alfabeta, 2010)., 72

⁵ Sudaryatmo, *Masalah Perlindungan di Indonesia* (Bandung: Citra Aditya Bakti, 1995)., 3

are harmful to health is the main factor causing manufacturers to use dangerous chemicals as food ingredients.⁶

The reasons why food manufacturers are increasingly ignoring safety are:⁷

- 1) Consumers generally do not have awareness about the safety of what they consume, so they do not demand much from producers to produce safe food products.
- 2) Consumers also have limited ability to collect and process information about the food they consume, so consumers have limitations in assessing food and find it difficult to avoid risks and food products that are quality and unsafe for health.

The protection of consumers is very urgent for every society in any circle, so this will of course be regulated in every country, as is the case in Indonesia. This consumer protection is regulated in Law Number 8 of 1999 concerning Consumer Protection, hereinafter referred to as (UUPK), State Gazette of the Republic of Indonesia Number 42 of 1999 Consumer Protection. The absence of balanced protection causes consumers to be in a weak position, especially if the product produced is a limited type of product, so that business actors can abuse their position, namely by monopolizing production and marketing, this of course will be very detrimental to consumers.⁸ The effects or impacts of misuse of dangerous food production can be very terrible, starting from triggering cancer, genetic disorders, birth defects when consumed by pregnant women, weakening of brain and nerve performance, and many other bad effects or impacts. These are the consumers who suffer the most harm and have this impact.⁹

Based on the results of an interview with Mr. Firman Tueno, staff at the Ditreskrimsus Polda Gorontalo, he explained that cases of misuse of dangerous food production in Gorontalo Province had been discovered twice in different years in the last five years.

Table 1. Data on Criminal Cases of Abuse of Dangerous Food Production in Gorontalo Province 2019-2022.

Year	Amount
2019	1
2020	1

⁶ Sidabalok dan Janus, *Hukum Perlindungan Konsumen Indonesia* (Bandung: Aditya Bhakti, 2006).

⁷ Sofie dan Yusuf, *Perlindungan Konsumen dan Instrumen-instrumen Hukumnya* (Bandung: Citra Aditya Bakti, 2006)., 43

⁸ Christovel J. Timah, Jemmy Sondakh, dan Dani R. Pinasang, "Perlindungan Hukum Bagi Konsumen Yang Mengalami Kerugian Akibat Mengonsumsi Makanan Dan Minuman Yang Berbahaya," *Lex Administratum* 8, no. 2 (2020): 43.

⁹ Wilbert Wilbert, Krisdayanti Wau, dan Venessa Chelsia, "Tinjauan Yuridis Terhadap Tindak Pidana Perdagangan Mie Kuning Basah dengan Menggunakan Bahan Formalin (Putusan Nomor 2796/Pid.Sus/2018/PN Mdn)," *JURNAL MERCATORIA* 13, no. 1 (27 Juni 2020): 62–74, <https://doi.org/10.31289/mercatoria.v13i1.3645>.

2021	0
2022	0
Total	2

Source: Gorontalo Police, 2022.

Based on the table above, there are two criminal acts of misuse of dangerous food production, one of which is a case of misuse of dangerous food production, specifically in Dusun IV, nggulo village, West Limboto District, Gorontalo Regency, it is suspected that they produced food that did not comply with the provisions of statutory regulations in the form of noodles. using borax.

Based on this information, the team then went to the defendant's house and showed a letter of assignment before taking action. At the defendant's house, they found food ingredients in the form of noodles, noodle dough, and noodle liquid which was suspected to contain the chemical borax, as well as putin powder which was suspected to be the chemical borax.

Then they took samples of food ingredients that had been mixed with these chemicals to carry out tests. After testing the putin powder and noodles that had been mixed with these chemicals, it turned out to be positive for containing Borax, then the team interrogated the defendant and employees of the defendant's noodle factory, at that time the defendant admitted that the noodles the defendant made used Borax.

Based on information from Novika Otto, S. Farm, Apt expert at the Gorontalo Food and Drug Monitoring Center according to his expertise, he explained that in accordance with Minister of Health Regulation 033 of 2012 concerning Food Additives, Article 8 Paragraph (1), it is stated that borax (including boric acid and its compounds) including ingredients that are prohibited from being used in food, so the evidence was determined to be two sacks of wet noodles, one sack of pasta-shaped noodle dough, one plastic putin powder suspected to be borax, and five bottles of water containing a mixture of ingredients used to make noodles.

Based on the Assignment Order of the Head of the Food and Drug Monitoring Center in Gorontalo No. PY.06.111.02.19.1308 dated March 16 2019 in connection with Operation OPSON VIII carried out a local inspection of facilities in the form of a wet noodle factory in Dusun IV nggulo, West Limboto District, Gorontalo Regency. On Saturday, March 16 2019 at around 05.30 WITA during the inspection, Joint BPOM Officers in Gorontalo, Gorontalo Province Diskoperindagkop, District Health Service. Gorontalo and the Gorontalo Regional Police discovered that there had been a criminal act of producing food for distribution which deliberately used materials that were prohibited from being used as food additives.

In Law Number 18 of 2012 Article 75 Paragraph (1) states that, every person who produces food for distribution is prohibited from using food additives that exceed the specified maximum threshold and/or substances that are prohibited from being used as food additives. If you violate these provisions, you are threatened with

imprisonment for a maximum of 5 (five) years or a fine of a maximum of Rp. 10,000,000,000.00 (ten billion rupiah) as regulated in Article 136 of Law no. 18 of 2012 concerning food.¹⁰

Table 2. Comparative Data on the Prevalence of Population with Moderate or Severe Food Insecurity, Based on the Food Insecurity Scale (Percent) 2017 - 2021.

Year	Percentage (%)
2017	19,39
2018	10,81
2019	8,79
2020	5,67
2021	9

Source: Gorontalo Central Statistics Agency, 2022.

Based on the table, above the prevalence of people with moderate or severe food insecurity in 2017 based on the food insecurity scale reached 19.36%, in 2018 food insecurity reached 10.81%, in 2019 food insecurity reached 8.79%, in 2020 food insecurity reached 5.67, and in 2021 food insecurity will reach 9%, if you look at all the comparative data above in 2017 there was a very high increase in food insecurity when compared to 2020, this means that food insecurity is moderate or severe in Gorontalo province Every year it decreases, but in 2021 there was an increase of 3.33% compared to 2020 which only reached 5.67%. So if you look at the overall comparative data available, moderate and severe food insecurity often increases or decreases every year.

Several surveys show that the reason manufacturers use formaldehyde and borax as preservatives is that the food's durability and quality are better and the price is cheaper, regardless of the dangers that can be caused. This is supported by consumers who tend to buy cheap food, without paying attention to quality. For this reason, efforts need to be made to increase awareness and knowledge for producers and consumers about the dangers of using chemicals that are not included in the category of food additives. Apart from that, a firmer government stance is needed in prohibiting the use of these two types of preservatives in food products because they can cause poisoning and death.¹¹

Furthermore, in this case, law enforcement is very necessary in a broad context in the realm of real or factual actions, deeds or behavior that are in accordance with binding

¹⁰ Indri Caroline, "Kajian Hukum Pidana Terhadap Produsen yang Menggunakan Bahan Tambahan Pangan yang Berbahaya dalam Perspektif Kriminologi (Studi Putusan Nomor 113/PID. SUS/2017/PN. KTG dan Putusan Nomor 814/PID. SUS/2018/PN.MDN)," *Jurnal Mahupiki* 1, no. 5 (10 Juli 2019): 1-15.

¹¹ Wisnu Cahyadi, *Bahan Tambahan Pangan* (Jakarta: Bumi Aksara, 2008)., 279

rules or norms, however, in an effort to maintain and restore order in social life, the government is the security actor.¹²

2. Method

The type of research used in this article is Empirical Legal research with a qualitative approach. Empirical legal studies themselves are studies that view law as reality, including social reality, cultural reality, and empirical studies of the world of *das sin* (what is reality).¹³ Furthermore, the data that has been collected will be analyzed using a qualitative approach, which is a research procedure that produces descriptive data, namely stated by respondents in writing or orally, and real behavior that occurs in the field related to the description or presentation of research subjects and objects as the results of the research carried out.

3. Obstacle Factors in Law Enforcement of Criminal Misuse of Dangerous Food Production in Gorontalo Province

One of the keys to success in law enforcement is the mentality or personality of the law enforcers themselves. According to W. Friedman, there are 3 (three) main factors for good law enforcement, as quoted by Soerjono Soekanto, namely:¹⁴

- a) Substantial factors, in this case, are the laws or regulations in force.
- b) Structural factors, in this case, authoritative law enforcement officials.
- c) Cultural factors, in this case, community legal awareness.

Based on the results of research conducted relating to the factors of obstacles faced by the Gorontalo Regional Police in enforcing the law against criminal acts of food production, the following explanation was obtained:

1) Internal factors, namely factors originating from within law enforcement institutions.

This is as proposed in Friedman's theory that legal structure is a framework that provides a boundary for the whole, where the existence of institutions is a concrete manifestation of the components of the legal structure. Quoting Bambang Waluyo's ideas in his book, he explains that one of the problems with the enforcement process is that the legal structure of law enforcement officers is still fragmented and compartmentalized in their respective functions, thus

¹² Mohamad Rizky Alhasni, Lisnawaty Wadju Badu, dan Novendri Mohamad Nggilu, "Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak di Bawah Umur," *JURNAL LEGALITAS* 12, no. 2 (2019): 114-27, <https://doi.org/10.33756/jelta.v12i2.5799>.

¹³ Achmad Ali dan Wiwie Haryani, *Menjelajahi Kajian Empiris Terhadap Hukum* (Jakarta: Kencana Prenada Group, 2012)., 2

¹⁴ Soerjono Soekanto, *Faktor – faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 2005)., 21

causing disparities and partiality in law enforcement. Based on this explanation, the internal factors are described as follows:

a) Facilities and Facility Factors

Supporting facilities and facilities, here means including software and hardware, so law enforcers cannot work well if they are not equipped with proportional vehicles and communication equipment. Therefore, facilities or facilities have a very important role in law enforcement. Without these means or facilities, it will not be possible for law enforcers to harmonize their proper role with their actual role. An alternative solution to overcome problems regarding facilities and equipment is that the police should provide sufficient funds to support law enforcement so that they can work well.

b) Personality and Mentality of Personnel

This is as explained by Firman Tuneo, that in practice the implementation of police duties and authority often causes problems, because attitudes and behavior are seen as exceeding authority. In relation to the personality and mentality of law enforcers, especially the police, it is still found that police behavior often makes decisions and policies that are not based on legal aspects, but are caused by factors such as: bribery or kickbacks to officers, entrustment by unscrupulous officials who have a good influence on within the police force and from outside the police department. An alternative solution to overcome the problem of personality and mentality of personnel is that the police should be more detailed in examining personnel who often commit fraud such as bribery or kickbacks so that there is no continuity in making decisions based on legal aspects.

c) Personnel Quality

Based on Mr. Firman Tuneo's statement, "In terms of the quality of law enforcement officers, the existing human resources are still considered to be of low quality. This is due to the lack of knowledge from the officers themselves, such as a lack of training and skills regarding certain criminal acts. "Apart from that, acceptance to become members of the police, which is currently still taken from the final level of high school (Senior High School), is also the cause of the lack of quality of human resources from the police." An alternative solution to overcome this problem is to increase training regarding criminal acts, as well as more detail in selecting new police members based on education and knowledge of the law in order to improve the quality of human resources.

d) Operational Funds

In carrying out its duties and role as a law enforcer, especially in investigating criminal acts of misuse of food production which require expert testimony to complete the Investigation Report (BAP), a relatively large budget is required so that the investigation can run smoothly. According to Firman Tuneo, this is one of the factors that can slow down the time for law enforcement. An alternative solution to overcome this problem is that the police should provide sufficient funds so that investigative efforts can run smoothly.

e) Difficulty in uncovering evidence

Based on the results of the interview with Mr. Firman Tuneo, he explained that evidence is something that can strengthen someone who has committed a criminal act, but in the case of misuse of food production, this is difficult because perpetrators often hide or move evidence (dangerous materials mixed in food production). or even the perpetrator did not cooperate in the search until undergoing examination. An alternative solution to overcome this problem is that the police must develop a strong strategy in searching for evidence.

2) External Factors, namely factors originating from outside law enforcement institutions.

These external factors are factors outside the enforcement institution, so they lead to the culture of the community. This was also initiated by Friedman that legal culture is the social atmosphere that underlies people's attitudes towards the law. As initiated by Soerjono Soekanto, the Community factor means that law enforcement comes from the community and aims to achieve peace in society. Every citizen or group has more or less legal awareness. The problem that arises is the level of legal compliance, namely high, medium or low legal compliance. The degree of community legal compliance with the law is an indicator of the functioning of the law in question. So based on this explanation, external factors are described as follows:

a) Leaking of Raid Information to Perpetrators

Based on an interview with Firman Tueno, food producers already knew that investigations would be carried out from other food sellers. From this, when investigators carried out investigations, food producers did not use formalin and borax, this hampered law enforcement given to food sellers because of prior information. An alternative solution to overcome this problem is that the police must suddenly carry out raids so that business actors or producers can no longer evade the raid.

b) Lack of Awareness in Fulfilling Rights and Responsibilities as a Business Actor

Based on an interview with Firman Tueno, the obstacles faced in the investigation process into criminal acts of food production were the factors of the business actors themselves. In this case, business actors as sellers of food production only use business land to make profits without fulfilling their responsibilities and obligations. An alternative solution to overcome this problem is that the police must hold direct outreach to business actors so that they do not carelessly produce materials or goods that violate legal provisions.

c) Narrow Job Opportunities

Based on an interview with Firman Tueno, it is difficult to get a job because of the imbalance between population growth and the availability of job opportunities. This has an impact on the large number of unemployed, giving rise to someone's intention to do evil things that benefit themselves. The available employment sectors do not match the increasing number of types of employment demand. The problem of unemployment is often an economic problem and this affects people's income and crime rates, for example food producers that contain dangerous substances. An alternative solution to overcome this problem is that business actors should produce materials or goods in a good and correct way so that they can create jobs for the unemployed.

d) Lack of Community Participation

According to Firman Tueno, the lack of public participation has an important role in criminal acts of food production that use borax and formalin. The impact of this lack of public participation is that it is difficult for investigators to find or prove a criminal act of food production that uses formalin and borax. The public should know the forms and the different taste of the food consumed or even the durability of the food ingredient. If food lasts a long time then it is possible that the food manufacturer mixed the food with formalin and borax. The public also still lacks knowledge about the law, especially regarding criminal acts of food production using borax and formaldehyde, especially for consumers who look at food by its price but do not show the content of the food and its impact on bodily health. An alternative solution to overcome this problem is that people must be more careful when consuming materials or goods that contain dangerous substances.

e) Community Legal Awareness

The public's low level of legal awareness is also an obstacle in investigating criminal acts of misuse of food production. With high public legal awareness, the efforts and role of law enforcement officials in tackling crime will be more optimal, especially regarding misuse of food production, because it will be easier for the public to know and understand

the impacts resulting from these actions, which of course can be detrimental to the interests of the community at large. Alternative solutions to overcome this problem, the public must be aware of the law regarding misuse of food production so that it does not endanger and harm the interests of the community at large.

The law enforcement factor originates from the community itself. This aims to achieve peace in society, therefore the community can influence law enforcement and Indonesian society has a great tendency to interpret the law and even identify law enforcement as personal law enforcers, one of the consequences is that The good and bad of law enforcement is always linked to the behavior patterns of law enforcers.

In tackling the distribution of dangerous food production which is increasingly widespread or increasingly rampant, of course there must be participation and cooperation as well as an active role from the community and also awareness of all parties, including the government, law enforcement officers and business actors themselves, so that with participation and work from all parties, it is clear that the distribution of dangerous food production will be easier to prevent and the perpetrators can be processed in accordance with applicable regulations. Therefore, cooperation from all parties is really needed in tackling the criminal act of distributing illegal cosmetic products. Without the help and participation of the community, the hard work of the authorities will seem difficult to carry out.

4. Conclusion

The problems of law enforcement regarding criminal acts of misuse of dangerous food production in Gorontalo Province include: *first*, internal factors caused by facilities and facilities, the personality and mentality of personnel, the quality of operational funding personnel, and the difficulty of uncovering evidence. *Second*, external factors caused by leaking information about raids to perpetrators, lack of awareness in fulfilling their rights and responsibilities as business actors, limited employment opportunities, lack of community participation, and public legal awareness.

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