



The Jurisdiction of Civil Servants of The POM Agency in Investigating Drug and Food Circulation Crimes in Indonesia.

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Abstract. Health growth has a crucial role in enhancing the quality of socially and economically productive individuals. By achieving optimal levels of public health, health advancement plays a crucial role in promoting economic growth and reducing poverty. The community's health and nutrition status is being enhanced through various initiatives, such as enhancing access to high-quality and inexpensive healthcare services, providing necessary healthcare resources, and empowering the community to participate in healthcare efforts actively. This study underscores the pivotal role of Civil Servants of the POM Agency in addressing drug and food circulation offenses, aiming to eliminate any violations of the Health Law restrictions in this regard. Investigation, as defined by this Law, is the systematic process conducted by investigators to search for and gather evidence to shed light on criminal acts and identify the culprit.

Keywords: Authority of Civil Servants of the POM Agency, Investigation

INTRODUCTION

Health is a crucial aspect of life as it contributes to a robust state of mind and body (*mens sana in corpore sano*). Every individual in good health can do all everyday duties and generate superior work. According to Article 1 number 1 of Law Number 36 of 2009 on Health (referred to as the Health Law), "Health is a condition of well-being, encompassing physical, mental, spiritual, and social aspects, which enables individuals to lead productive lives in social and economic terms." Health is a fundamental necessity that every individual must have.

The government has to fulfill the health requirements of all individuals. According to article 14 paragraph (1) of the Health Law, the government has to plan, regulate, organize, promote, and oversee the implementation of fair and affordable healthcare initiatives by the community. The article suggests that each person possesses the entitlement to good health, and the government has to oversee the achievement of a healthy

life for the entire population. To ensure this right, the government must offer health services that are just, impartial, and accessible to all segments of society. Medicine availability is a crucial pillar of health services.

The government has a broad and intricate range of responsibilities in the area of drug and food oversight. These duties encompass the well-being and livelihoods of numerous individuals and carry significant implications for consumer safety and health, which are of great public concern. Therefore, it is necessary to conduct supervision comprehensively and systematically, encompassing the quality of materials, production methods, distribution, storage, and the final product's readiness for consumption by the community. Partial supervision solely on the final product in circulation is insufficient. Consistent with international market regulations, it is necessary to conduct oversight from the point of product entry to its distribution in the market. Within all of these supply chains, there needs to be a system with a mechanism capable of identifying product quality. This allows for early intervention in quality deterioration, substandard products, contamination, and other potential threats to public health. (Regulation of the Head of the Food and Drug Supervisory Agency of the Republic of Indonesia Number 29 of 2013 concerning the Strategic Gis Plan of the Food and Drug Supervisory Agency for 2010-2014, page 2).

Several pharmaceuticals and food products are still circulated in Indonesia without the necessary distribution permits. The term "circulation" refers to the process of distributing, selling, marketing, and distributing various medications and food products. To prevent this, a dedicated institution that particularly addresses the matter and ensures proper law enforcement is necessary.

The objective of criminal procedural law is to acquire the utmost comprehensive truth. Andi Hamzah explains that criminal procedure law aims to uncover and obtain the most comprehensive truth in a criminal case. This is achieved by honestly and appropriately applying the provisions of the criminal procedure law to determine the perpetrator's identity and accuse them of violating the law. The court then examines the evidence to determine whether a criminal act has been committed and whether the accused person can be held responsible (Hamzah, 2008, pp. 1-8). In his work, Andi Hamzah explains that criminal law encompasses both substantive criminal law, which deals with the material aspects of crimes, and criminal procedural law, which focuses on the formal aspects of criminal law. The Criminal Procedure legislation is responsible for

implementing the substantive criminal procedure legislation, often known as formal criminal or criminal procedure law. Criminal procedure law governs how the state utilizes its authority to punish individuals and inflict criminal sanctions. The Criminal Procedure Code (KUHP) does not explicitly define criminal procedure law. However, it encompasses several aspects such as investigation, prosecution, trial, pretrial, court judgment, legal remedies, confiscation, search, arrest, detention, etc. Article 1 of the Criminal Procedure Code (KUHP) (Hamzah, 2008, p. 4) states this.

The scholars cited above have formulated the definition of Criminal Procedure Law with the primary objective of discovering and obtaining the truth in a criminal case. The primary responsibilities of Civil Servant Investigators at the Food and Drug Supervisory Agency involve conducting investigations and inquiries into unlawful practices related to producing drugs and food that do not comply with legal regulations. As explained earlier, this study will analyze the power and role of government servants in the POM agency when investigating drug and food circulation crimes in Indonesia.

LITERATURE

Food and Drug Supervisory Agency

The development of the socio-cultural and religious life fields is directed at the main objectives of establishing an Indonesian society characterized by noble character, morals, ethics, culture, and civilization and creating a competitive nation that leads to a more prosperous society. Enhancing human resource quality, among other measures, can achieve this. The attainment of these primary objectives is intrinsically linked to advancements in the healthcare field.

Health development is crucial in enhancing the quality of socially and economically productive individuals. By achieving optimal public health, health advancement is integral to promoting economic growth and reducing poverty. The community's health and nutrition status is being enhanced through various initiatives, such as improving access to high-quality and inexpensive healthcare services, providing necessary health resources, and actively empowering the community to participate in health-related endeavors.

Drug and food surveillance in Indonesia is a crucial component of health development, and it must proactively anticipate changes in the ever-evolving strategic environment. Rapid and accurate anticipation of direct and indirect changes impacting the Drug and Food surveillance system is necessary. The POM Agency aims to enhance the

effectiveness of public health protection by addressing the dangers posed by untrained, counterfeit, substandard, and illicit drug and food items. To achieve this, they are working towards strengthening a comprehensive and robust surveillance system for drugs and food.

One of the primary objectives of the POM Agency is to safeguard public health by ensuring that pharmaceuticals and food products adhere to strict standards of safety, effectiveness, and quality. This aligns with enhancing public well-being through public health reform initiatives to attain optimal levels of public health in meeting the aims of the MDGs (Millennium Development Goals). The POM Agency not only fulfills the role of protecting public health but also contributes to the growth of the national economy by ensuring that domestically produced drug and food products meet internationally recognized standards and regulations. The POM Agency provides technical support to business operators in the Drugs and Food industry to enhance the competitiveness of domestic products and enable them to participate in regional and global commerce.

The government's responsibilities in drug and food oversight encompass a vast and intricate range of activities. These activities directly impact numerous individuals' well-being and livelihoods and significantly affect consumer safety and public health. Therefore, supervision must be conducted comprehensively and systematically, encompassing the quality of materials, production methods, distribution, storage, and the final product's readiness for consumption by the community. Partial supervision solely on the final product in circulation is insufficient. Consistent with international market regulations, oversight must be conducted from the moment of product entrance to its distribution in the market. Within each of these supply chains, it is imperative to establish a robust system equipped with a mechanism capable of promptly detecting any decline in product quality. This proactive approach ensures that appropriate security measures may be implemented to mitigate risks such as sub-standard products, contamination, and other potential threats to public health.

The government has mandated the Food and Drug Supervisory Agency to supervise drugs and food. This agency must have a robust supervisory infrastructure, high professional integrity, credibility, and the authority to enforce laws in this field. Presently and in the forthcoming years, the Food and Drug Administration will encounter an exceedingly dynamic strategic environment. The Food and Drug Control System (SISPOM) is significantly affected by economic globalization, scientific and technological progress, and regional agreements such as the harmonization of the Association of South

East Asian Nations (ASEAN), ASEAN Free Trade Area (AFTA), and ASEAN-China Free Trade Area (ACFTA). The movement of drug items, pharmaceutical preparations, and food between countries will be facilitated with reduced hurdles and restrictions. Indonesia must establish a proficient and streamlined SISPOM to safeguard the well-being and safety of its citizens from potentially hazardous products.

Simultaneously, SISPOM must possess a robust foundation to effectively assess the quality of Indonesian pharmaceuticals and food products exported to different nations. Given its status as the most populous country in ASEAN and the largest archipelago, Indonesia should have the most superior SISPOM in ASEAN, encompassing exceptional people resources, operational systems, and infrastructure. To achieve world-class performance, it is imperative to enhance the competence and capacities of the POM Agency in this particular environment. In the future, the POM Agency will evolve into an institution with a robust knowledge base and a vibrant, unified national and international network. Simultaneously, the POM Agency engages in public empowerment efforts to ensure that individuals possess the information and capacity to proactively safeguard themselves from the hazards posed by pharmaceuticals and food products that fail to satisfy the relevant standards.

Definition of Investigation

Investigation, as described in the Criminal Procedure Code (KUHAP), refers to a systematic process carried out by investigators following the provisions of this law. Its purpose is to look for and gather evidence that illuminates the criminal conduct that has taken place and to identify the suspect involved. As per Article 1 of the Criminal Procedure Code, the Investigator refers to a state police official of the Republic of Indonesia or specific civil servant officials who are granted particular jurisdiction by law to carry out investigations. Investigation refers to a sequence of activities carried out by investigators in line with the regulations outlined in the law. Its purpose is to gather evidence in order to uncover the details of a criminal act and identify the person responsible.

An investigation is a systematic process conducted by an investigator, following the regulations outlined in this Law, to look for and gather information that illuminates the criminal act that has taken place and to identify the suspect (Hamzah, 1996, p. 122). From this definition, it is evident that an investigation is a systematic activity conducted by investigators to gather evidentiary materials to elucidate the committed crime.

Article 7, paragraph (1) of the Criminal Procedure Code (KUHAP) defines the investigator's authority to make arrests, detentions, searches, and seizures. The Criminal Procedure Code (KUHAP) stipulates the conditions for confiscation by investigators in Article 38, paragraph (1) and paragraph (2) as follows: • Investigators can only carry out confiscation if they have obtained a permit from the chairman of the local District Court. • In cases where immediate action is necessary and obtaining the permit beforehand is impossible, investigators may confiscate only movable objects. However, they must promptly report to the chairman of the local District Court to seek approval without violating the provisions stated in paragraph (1).

The article provides a comprehensive explanation that the confiscation procedure can only be conducted with authorization and under the supervision of the Chief Justice of the District Court. To address the issue of requiring the investigator to take direct action, the article suggests enabling the investigator to intervene directly and then submit a report of the investigation to the Chief Justice of the District Court.

Investigation Officer (Investigator)

As to Article 4 of the Criminal Procedure Code (KUHAP), the investigator is a law enforcement professional belonging to the police force of the Republic of Indonesia. The individuals involved in this investigation are as follows: The State Police Officer of the Republic of Indonesia refers to specific Civil Servant personnel who are granted particular jurisdiction by law.

- Specific Civil Servant Officials who are granted exceptional authority by legislation. Confident Civil Servant investigators, such as customs and excise officers, immigration officials, and forestry officials, perform investigative tasks in line with the particular authority granted by the legislation that forms the foundation of their respective roles. Investigators, as defined in Article 6 of the Criminal Procedure Code (KUHAP), have the obligation to:
- Receive a report or complaint on a criminal act from an individual, Initiate immediate action upon arrival at the scene. Command the suspected individual to halt and verify their identity, Performing arrests, detentions, searches, and seizures, conducting inspections and confiscation of correspondence • Capturing fingerprints and photographs of individuals

- Summoning individuals for questioning and examination as potential suspects or witnesses
- Enlisting the required specialists for the examination
- Concluding the investigation process
- Carrying out additional steps in compliance with the legislation of accountability

The preceding explanation elucidates the investigator's jurisdiction, which includes the power to summon individuals for questioning and examination as potential perpetrators or witnesses in a criminal offense. Later, this will be connected to endeavors to get information or question individuals under investigation.

METHOD

Interrogation in Investigation Procedures

When criminal conduct occurs, or there is suspicion, the investigator should immediately initiate an investigation as the primary course of action. If there is a suspicion of a crime or violation, it is necessary to ascertain its veracity, determine if criminal conduct has occurred, and identify the perpetrator. Information regarding the occurrence of an illegal act can be acquired from different sources, which can be categorized as follows:

We discovered (caught in the act). Hands caught outside. Being caught refers to the concept described in Article 1, point 9 of the Criminal Code.

- Apprehended in the act of committing a criminal offense, or
- Promptly following the commission of the criminal act, or
- Shortly after that, publicly identified as the perpetrator, or
- If shortly after that an object is discovered that is suspected to have been used in the commission of the crime, indicating his involvement as the perpetrator or as an accomplice. Alternatively, if the investigator is not apprehended, they can obtain information about the commission of a criminal offense through a report or complaint.
- Investigators acquire knowledge through their efforts. The criminal justice system necessitates testimony from witnesses, victims, and suspects to ascertain factual accuracy. Law enforcement officers, prosecutors, and judges lack firsthand observation of the case's events and must rely on the facts at hand to provide verdicts. Hence, the testimonies provided by witnesses or suspects hold significant importance.

In psychology, the memory of witnesses and defendants is very susceptible to distortion due to numerous circumstances that compromise the accuracy of information. Psychological strategies are necessary to mitigate the influence of bias in information. Two often employed methodologies are hypnosis and cognitive interviewing. Mastery of these

two strategies necessitates expertise. This strategy is particularly crucial during the early process of gathering testimony (in the Police) because it is during this time that the Examination Report is created.

DISCUSSION

Investigator of the Civil Servant Center of the Food and Drug Supervisory Agency

Drug and Food supervision efforts are implemented in a broad spectrum of activities. These include establishing standards for facilities and products, evaluating registered products, collecting product samples in the field, inspecting production and distribution facilities, conducting laboratory tests on field-collected samples, and conducting investigations and law enforcement actions against parties involved in irregular production and distribution practices and the distribution of non-compliant products. According to Presidential Decree No. 103 of 2001, which has been amended multiple times, including the most recent amendment by Presidential Regulation No. 64 of 2005, the POM Agency's position, duties, functions, organizational structure, and work procedures are outlined as follows:

1. Ranking • The Food and Drug Supervisory Agency (BPOM) is a Non-Departmental Government Institution established by the President to fulfill specific governmental responsibilities. • The Food and Drug Supervisory Agency (BPOM) operates under the authority and accountability of the President. The Food and Drug Supervisory Agency (BPOM) is under the coordination of the Minister of Health when performing its functions. The Food and Drug Supervisory Agency (BPOM) is under the leadership of the Head.
2. Objectives The Food and Drug Supervisory Agency (BPOM) oversees and regulates drugs and food in line with relevant laws and regulations.
 - Purpose The POM Agency performs the following functions while carrying out its duties:
 - Evaluating and developing national policies for drug and food regulation
 - Enforcement of specific regulations in the area of drug and food oversight
 - Organizing and overseeing the execution of tasks within the POM Agency's responsibilities
 - Overseeing and providing direction on the operations of government entities involved in Drug and Food regulation

- This involves providing overall administrative guidance and services in several areas, such as planning, organization, personnel management, finance, archives, encryption, equipment, and home management.
- The roles and responsibilities of civil servant investigators within the Food and Drug Supervisory Agency are outlined in the Decree of the Head of the Indonesian Food and Drug Supervisory Agency Number 02001/1/SK/KBPOM dated February 26, 2001:342.
 - Development of strategies and initiatives for drug and food analysis and research.
 - Execution of drug and food analysis and research activities.
 - Conducted assessments and compiled reports on executing drug and food inquiries and investigations.

Drug and Food supervision efforts implement a broad range of activities. These include establishing standards for facilities and products, evaluating registered products, collecting product samples in the field, inspecting production and distribution facilities, conducting laboratory tests on field-collected samples, and conducting investigations and law enforcement actions against parties involved in irregular production and distribution, as well as the distribution of non-compliant products.

Authority of Civil Servants of the POM Agency in the Investigation of Drug and Food Trafficking Crimes in Indonesia

- According to Article 69 of Presidential Decree Number 103 of 2001, the BPOM is empowered to:
 - Collect samples of food being distributed and
 - Develop national strategies on a large scale in their respective areas of expertise.
- They formulate policies within their respective professions to facilitate macro-level development.
- Identification of information systems within their respective domains. The objective is to establish the requirements for utilizing specific additives in food and to provide rules for the distribution of medications and food.
- Regulating and overseeing the distribution of drugs and monitoring the pharmaceutical sector.
- Establishment of protocols for utilizing, cultivating, and overseeing medicinal plants.

Moreover, Article 45 of Government Regulation Number 28 of 2004 stipulates the following:

- (1) The agency has the authority to oversee food's safety, quality, and nutritional aspects in circulation.
- (2) The authorized authority is responsible for conducting random sampling of food products being distributed to carry out the supervisory duty described in paragraph (1).
 - Performing analysis on food samples as mentioned in paragraph (2) point a. The test results mentioned in paragraph (2) point b are as follows:
 - Fresh food is inspected and monitored by agricultural, fisheries, or forestry agencies by their responsibilities and authorities.
 - Processed foods are inspected and monitored by fisheries, industry, or relevant agencies based on their respective areas of responsibility and authority.
 - The Agency monitors certain processed foods.
 - Processed food products from the household food industry and ready-to-eat food are inspected and monitored by the Regional Government of the respective Regency/City.

The mechanism of investigation by BPOM.

An investigation is a procedure that must be conducted autonomously without any interference. The authority of civil servant investigators in the health sector, particularly investigators of the Drug and Food Supervisory Center, to conduct investigations as specified in Article 189 paragraph (2) of Law Number 36 of 2009 regarding health includes:

- Verifying the accuracy of reports and information regarding criminal activities in the health sector;
- Perform a thorough investigation of individuals suspected of engaging in illicit activities inside the healthcare industry. Seek information and evidence from individuals or organizations involved in criminal activities within the healthcare industry;
- Request information and evidence from individuals or organizations involved in criminal activities within the healthcare industry;
- Examine letters and other documents related to criminal activities within the healthcare industry;
- Conduct examinations or seize materials or evidence in cases of criminal activities within the healthcare industry;
- Seek expert assistance in the course of conducting criminal investigations within the healthcare sector;

If there is not enough evidence to prove the existence of criminal acts in the health sector, the investigation will be stopped.

The civil servant investigator of the Food and Drug Supervisory Agency has the authority, as stated in the Law of the Republic of Indonesia Number 8 of 1981, concerning the Criminal Procedure Code article 7 paragraph (2) and Law of the Republic of Indonesia Number 36 of 2009 concerning Health Article 189 paragraph (2), to:

- Verify the accuracy

of reports and information regarding criminal acts in the health sector. - Investigate individuals suspected of committing criminal acts in the health sector.

- Gathering information and evidence from individuals or organizations related to criminal activities in the healthcare industry. - Examining letters and other documents related to criminal activities in the healthcare industry. - Conducting investigations and seizing materials or evidence in criminal cases within the healthcare sector. - Seeking expert assistance to investigate criminal activities in the healthcare sector. - Ceasing the investigation if there is insufficient evidence to prove a criminal act in the healthcare sector.
- Generate criminal investigation reports and inform the Food and Drug Supervisory Agency of hazardous products discovered within the Food and Drug Supervisory Center's jurisdiction.

Investigation by the Police

As per Article 1, number 4 of the Criminal Procedure Code (KUHP), an Investigator is a police officer from the Republic of Indonesia legally empowered to conduct investigations. As per Article I number 5 of the Criminal Procedure Code (KUHP), Investigation refers to a sequence of actions conducted by investigators to locate and identify a suspected criminal event to determine whether an investigation can be conducted following the provisions of this law. This article elucidates that investigation can be perceived as the endeavor to uncover a suspected criminal act as the preliminary step in conducting an inquiry. According to this article, the investigation is an initial step that is subsequently followed by the execution of the investigation. According to Article 5, paragraph (1), point (a) of the Criminal Procedure Code, the investigator is granted the following powers:

- Receiving a report or complaint from an individual regarding a criminal offense:
 - Gathering information and evidence;
 - Directing a suspect to halt and verifying their identification;
 - Taking appropriate actions following legal obligations.
- The authority, as mentioned earlier, is used to gather an initial suspicion of criminal conduct by the offender. Meanwhile, the investigation involves actively searching for evidence and witnesses that incriminate the culprit and establish their involvement in the incident. During the investigation process, an investigator, in compliance with Article 5 paragraph (1) point (b) of the Criminal Procedure Code, is authorized to perform the following actions: - Arrest, restrict the freedom of movement, conduct

searches, and detain individuals. - Examine and seize correspondence. - Collect fingerprints and capture photographs of individuals. - Summon and confront individuals before the investigator.

The investigation's findings will be subsequently communicated to the investigator, as required by Article 5, paragraph (2) of the Criminal Procedure Code. The individuals classified as investigating officers are state police officials in the Republic of Indonesia who hold the status of civil servants and are granted specific legal powers.

- Certain individuals employed in the public sector are granted certain legal powers. When a criminal act occurs or there is suspicion, the investigator should prioritize conducting an investigation. If there is suspicion of a crime or violation, it is necessary to determine its veracity, ascertain whether criminal conduct has occurred, and identify the perpetrator.
- Obtaining information on the occurrence of this crime can be achieved by suspicion or knowledge, and these sources can be categorized as follows:
 - Apprehended (discovered in the act) • Apprehended outside Being caught refers to apprehending an individual in the following circumstances: • When a person is arrested while committing a criminal act. • When a person is arrested shortly after committing multiple criminal acts. • When a person is identified by the crowd as the perpetrator immediately after the crime. • When an individual is found in possession of an object suspected to have been used to commit the crime, indicating their involvement as the perpetrator or an accomplice. (Article 1, point 19 of the Procedural Code) Meanwhile, if the investigator can acquire information on the occurrence of a criminal crime from • Report • Complaints • Self-awareness by the investigator or investigator

CONCLUSION

From the above discussion, it may be inferred that according to Article 4 of the Criminal Procedure Code, a specific Civil Servant granted special authority by the Law (in this instance, BPOM civil officials) has the right to conduct an inquiry. The implementation of Drug and Food supervision efforts encompasses a broad spectrum of activities, including the establishment of standards for facilities and products, evaluation of registered products, collection of product samples in the field, inspection of production and distribution facilities, laboratory analysis of field samples, as well as investigations and enforcement actions against individuals or entities involved in deviations from production methods and distribution practices, or the distribution of non-compliant products. The

authority of BPOM civil servants includes verifying the accuracy of reports and information regarding criminal activities in the health sector, investigating individuals suspected of committing such crimes, gathering information and evidence from individuals or organizations related to health sector crimes, examining documents related to health sector crimes, confiscating materials or evidence in criminal health cases, seeking expert assistance for investigating health sector crimes, and discontinuing investigations if there is insufficient evidence to prove the occurrence of a criminal act in the health sector. Submit criminal investigation reports and inform the Food and Drug Supervisory Agency of the presence of hazardous products discovered within the jurisdiction of the Food and Drug Supervisory Center.

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