

**LAW ENFORCEMENT AGAINST FOOD HOARDING ACTIVITIES  
DURING THE COVID-19**

**Dwi Desi Yai Tarina; Muthia Sakti; Dinda Dinanti**

Faculty of Law, Universitas Pembangunan Nasional Veteran Jakarta

Email: tarina112@gmail.com; muthiasakti@upnvj.ac.id; dindadinanti@upnvj.ac.id

---

**ABSTRACT :** The world is currently facing the same problem, namely the coronavirus or Covid 19. During this pandemic, all sectors of the economy are very influential on survival. The existence of Large-Scale Social Restrictions (PSBB) has caused people to panic buying. So, in other words, there has been a new problem, carrying out the activities of hoarding staple food carried out by entrepreneurs, suppliers, and traders. The hoarding results in losses to the community or business actors. By conducting juridical normative research methods based on applicable laws and regulations, law enforcement is needed to realize justice, certainty, and benefits. The policy in tackling the crime of food hoarding in Indonesia has been regulated in Law Number 18 of 2012 concerning Food and Law Number 7 of 2014 concerning Food. Moreover, it has also regulated in Government Regulation No. 17 the Year 2015 on Food Security and Nutrition, which regulates the mechanism, procedure, the maximum amount of staple food storage by businesses. Business actors who deliberately hoard food may be sentenced to imprisonment for a maximum of 7 (seven) years or a maximum fine of Rp. 100,000,000,000.00 (one hundred billion rupiah). It can be concluded that criminal law policy-related efforts to combat the crime of hoarding of food have been regulated in the Law of Food and Trade Act.

**Keyword:** Law enforcement; Hoarding; Covid-19; Food.

## **INTRODUCTION**

Indonesia is an agricultural country that is rich in agricultural, forestry, plantation, livestock, and fishery products. These natural conditions provide great opportunities for the Indonesian people to run businesses in the agricultural sector and those related to agriculture. The various types of food in Indonesia have made this country a prosperous country, providing welfare and adequate food sources for the Indonesian people.

Facing the era of openness in the economic sector which is influenced by market freedom which has triggered the emergence of various forms of crimes in the economic sector, it is necessary to consider the protection of the economy in Indonesia. When there is turmoil in the economy, people often argue that this is simply the fault of the Government in making economic policies (Loqman, 2001). Indonesia has been recorded as a country that is capable of

food self-sufficiency. History records that Indonesia was able to fulfill its staple food, namely rice, so there was no need to import it from outside. The Government's achievements in realizing rice self-sufficiency did not last long (Hadi, 2012).

Food is one of the primary (main) needs for humans, so that lack of food will make people suffer. This can be seen in the news broadcast on various mass media, where a shortage of food (food and drink) results in suffering, for example, starvation in children. Also without eating or drinking for a certain time, humans will die.

Food shortages can occur for several reasons. One of the causes is due to natural factors, such as failed crops due to bad weather such as drought or vice versa due to flooding. Apart from natural factors, other causes are also caused by humans themselves. At certain times, such as in the month of Ramadan which is approaching Hari Raya, or when an event is suspected to have an impact on food shortages, traders can hoard food so that food circulation in the community decreases and the price increases high. Food hoarding, marked by the scarcity of several food commodities and followed by an increase in food prices in the community, further alienates the aspirations of the Indonesian nation to achieve food security. One indication of the failure of food security in Indonesia is due to a game by a group of people who are suspected of hoarding staple food commodities to achieve personal gain as well as group gain.

The Covid-19 pandemic had a significant impact on several sectors, not only the health sector but also the economic sector. The implementation of Large-Scale Social Restrictions (PSBB) in Indonesia has changed most people's behavior. The fear of a shortage or scarcity of food in circulation makes some people take unfavorable steps by panic buying, buying food on a large scale, and then when the goods are scarce, selling by applying high prices.

From 1 January to 27 March 2020, Bareskrim Polri stated that the Police Food Task Force had enforced 15 cases of food hoarding in several parts of Indonesia. Case handling is handled by each regional police by the locus delicti. It was also stated that the Central Java Regional Police were handling 2 (two) cases of food hoarding, 2 (two) cases of Central Kalimantan Regional Police, 7 (seven) cases of South Kalimantan Regional Police, and 4 (four) West Sulawesi Regional Police. This is by the Telegram Letter Number ST / 1099 / IV / HUK.7.1. / 2020 dated April 4, 2020, regarding the limitations of basic commodities and the distribution process during a pandemic. The Telegram Letter explains the types of violations or crimes that may occur, including price games, stockpiling of goods, and the possibility of people blocking or obstructing food distribution channels.

The activity of hoarding staple food like this is certainly not a new story among entrepreneurs, suppliers, and traders who unilaterally and deliberately play out the availability of staple food

in the community for personal and group interests and benefits. Therefore, it is also necessary to enforce the law against the criminal act of hoarding necessities through repressive means, namely imposing criminal sanctions against violators of statutory provisions. The danger of the act of hoarding or hiding foodstuffs exceeds the maximum amount makes the legislators of Law Number 18 of 2012 on Food determine this act as a criminal act as stated in Article 133. Although regulations are governing this matter, hoarding or storing large quantities of foodstuffs still occurs.

Hoarding by this business actor causes the public or consumers to suffer losses due to price games. For example, when goods are scarce, business actors will remove the stored goods and sell them at very high prices, which the public or consumers should buy at normal prices. In this case, the consumer's right to get goods at a suitable price and the right to obtain goods is generally not fulfilled. So that the act is against the laws and regulations and harms the consumer. The non-fulfillment of consumer rights is regulated in Article 4 letter b of Law Number 8 the Year 1999 on Consumer Protection. Whereas the article states the right of consumers to obtain goods according to the exchange rate. So that for business actors who commit fraud in the business sector, especially crimes of hoarding goods, the regulation of this consumer protection law is expected to have a deterrent effect on criminals of hoarding. However, legal instruments that protect consumers are not intended to kill the businesses of business actors, but on the contrary, consumer protection can encourage a healthy business climate that encourages the birth of companies that are resilient in dealing with supplies through the provision of quality goods and/or services. It's all because of the weak position of consumers, consumers must be protected by law (Kristiyanti, 2008).

The concentration of economic power is the real control over a certain market for goods or services by one or more business actors with such control that the business actor can determine the price of goods or services (this is known as price-fixing). Meanwhile, unfair business competition can occur if the competition that occurs among business actors in carrying out production and/or marketing activities of goods or services is dishonest or against the law and can hinder business competition (Lubis, 2009). Imposing criminal sanctions on the perpetrators of food hoarding is a natural thing, considering that the criminal act of hoarding food is very disturbing to the public because it causes the scarcity of certain food commodities in the community, which results in soaring prices for the hoarded food.

## **METHOD**

This study using normative juridical research methods. By using a legal approach, a conceptual approach, and an analytical approach. Furthermore, using data collection methods obtained

from journals, books, and other literary materials related to the theme of writing. The data collection method uses primary, secondary, and tertiary legal data. This research focuses on regulations in Indonesia related to food hoarding, such as the Food Law, Law Number 8 of 1999 on Consumer Protection, Law Number 27 of 1999 on Amendments to the Criminal Code relating to state security crimes, Law Law Number 7 of 2014 on Trade, Regulation of the Minister of Trade Number 57 of 2017 on Stipulation of the Highest Retail Price of Rice and Regulation of the Minister of Trade Number 7 of 2020 on Reference Purchase Prices at Farmers Level and Reference Sales Prices at Consumer Level.

## **DISCUSSION**

Law enforcement is an effort to bring the ideas of justice, legal certainty, and social benefits into reality. So law enforcement is essentially a process of embodying ideas. Law enforcement is the process of carrying out an effort to uphold or function legal norms in a clear manner as a code of conduct in traffic or legal relations in public and state life. Concrete law enforcement is the application of positive law in practice as it should be obeyed. Therefore, providing justice in a case means formulating law in concreto in maintaining and guaranteeing adherence to material law using procedural methods stipulated by formal law. In essence, law enforcement embodies values or rules that contain justice and truth, law enforcement is not only the duty of everyone. Joseph Goldstein distinguishes criminal law enforcement into 3 (three) parts (Shant, 1988), namely:

- a. Total enforcement, namely the scope of criminal law enforcement as formulated by substantive criminal law. Total enforcement of criminal law is impossible because law enforcers are strictly limited by the criminal procedure law which includes rules for arrest, detention, search, seizure, and preliminary examination. Besides, the substantive criminal law itself may provide limitations. For example, a complaint is needed first as a condition for prosecution on complaint offenses. This limited scope is called the area of no enforcement.
- b. Full enforcement, After the total scope of criminal law enforcement, has been reduced to the area of no enforcement in law enforcement, law enforcers are expected to uphold the law maximally.
- c. Actual enforcement, According to Joseph Goldstein, this is considered not a realistic expectation, because there are limitations in the form of time, personnel, investigative tools, and so on, all of which result in the need for discretion, and the rest is what is called actual enforcement.

Factors affecting law enforcement (Soekanto, 2004) is:

- a. Legal Factors; in the practice of law enforcement in the field, there are times when there is a conflict between legal certainty and justice, this is because the conception of justice is an

abstract formula, while legal certainty is a procedure that has been determined normatively. A policy or action that is not entirely based on law is something that can be justified as long as the policy or action is not against the law. So in essence, law enforcement includes not only law enforcement, but also peace maintenance, because law enforcement is a process of harmonizing real rules and patterns of behavior aimed at achieving peace.

- b. Law Enforcement Factors; legal function, mentality, or the personality of law enforcement officers play an important role. If the regulations are good, but the quality of the officers is not good, there is a problem. Therefore, one of the keys to success in law enforcement is the mentality or personality of the law enforcer.
- c. Supporting facilities and facilities factors; supporting facilities or facilities include software and hardware, one example of software is education. The education received by the police today tends to be conventional practical matters, so that in many cases the police experience obstacles in their objectives, including knowledge of computer crimes, in special crimes which have been given authority to the prosecutor, this is because technical juridical police are deemed incapable and not ready. Although it is also realized that the duties that the police must carry out are vast and numerous.
- d. Community Factors; law enforcement comes from society and aims to achieve peace in society. Every member of the community or group at least has legal awareness, the problem that arises is the level of legal compliance, namely high, moderate, or insufficient legal compliance. The degree of community legal compliance with the law is one indicator of the functioning of the law in question.
- e. Cultural factors; based on the concept of everyday culture, people talk about culture so often. Culture, according to Soerjono Soekanto, has a very large function for humans and society, namely to regulate people so that people can understand how they should act, act and determine their attitudes when they relate to other people. Thus, culture is the mainline of behavior that establishes rules about what to do and what is prohibited.

Law enforcement is defined as the implementation of the law by law enforcers and everyone who has an interest and is by their respective authority according to the applicable legal rules. Thus, law enforcement is a system that involves harmonization, among others, rules, and real human behavior. These principles then become guidelines or benchmarks for behavior or actions that are deemed appropriate or supposed, the behavior or attitude of action aims to create, maintain, maintain peace. Law enforcement is an effort to bring ideas of legal certainty, social benefits, and justice into reality. The process of manifesting these three ideas is the essence of law enforcement (Rahardjo, 1980).

Economic crime is conceptually changing and developing its meaning from time to time. At the beginning of its appearance, the term economic crime was interpreted as a violation related to acts regulated by Law Number 7 Drt 1955. In its development, the term economic crime was

interpreted as a violation which is a prominent feature of crimes against community development, either In societies that are already modern and that are experiencing developments towards modernization, this crime is very broad and can transcend territorial boundaries. These economically motivated crimes harm activities in the public economy and sound state finances and cause large-scale losses. (Adji, 2003).

The criminal law policy in tackling the criminal act of food hoarding in Indonesia is regulated in Law Number 18 of 2012 concerning Food and Law Number 7 of 2014 concerning Food. Regulations regarding the prohibition as well as legal threats for food hoarding business actors or business actors storing more than the maximum amount of staple food have been clearly and firmly regulated in Law Number 18 of 2012 along with its implementing regulations. It's just that in its implementation, law enforcement against the crime of hoarding or storing staple foods exceeding the maximum amount as referred to in article 53 of Law Number 18 of 2012 cannot be implemented effectively for several reasons. First, when referring to Article 53 of Law Number 18 the Year 2012 concerning Food, food business actors are prohibited from hoarding or storing more than the maximum amount of staple food as referred to in Article 52. As for the provisions of Article 52, in terms of food trade, the Government shall determine the mechanism, procedures, and the maximum amount of staple food storage by food business actors which is regulated by or based on a Government Regulation. Further delegation of article 52 paragraph (2) of Law Number 18 of 2012 is regulated in Article 64, Article 65, Article 66, and Article 67 of Government Regulation Number 17 of 2015 concerning Food Security and Nutrition, which essentially regulates related matters. with the mechanism, procedure, and maximum amount of staple food storage by business actors shall be regulated by a Ministerial Regulation that administers Government affairs in the trade sector.

The Regulation of the Minister of Trade has yet to be issued. So that the implementation of Article 53 in conjunction with Article 133 of Law Number 18 of 2012 concerning Food has yet to be implemented due to further regulation regarding technical mechanisms, procedures, and maximum amount of staple food storage by business actors which should be regulated in technical regulation of the Minister of Trade. not yet published. Second, the issuance of Presidential Regulation Number 71 of 2015 is the root of weakness in terms of criminal law formulation policies. Article 11 of Presidential Regulation Number 71 of 2015 states that in the event of scarcity of goods, price fluctuations, and/or traffic barriers to trade in goods, staple goods and/or important goods are prohibited from being stored in warehouses for a certain amount and period beyond the reasonable limits exceeding the current stock or inventory of goods, to fill the market with a maximum period of 3 (three) months, based on the average monthly sales records under normal conditions. The provisions of Article 11 paragraph (2) of Presidential Regulation Number 71 of 2015, which provides a maximum time limit of 3 (three)

months for storing these essential and/or important items, have created separate problems in law enforcement. This is due to conditions in the field, storing the necessities and/or important items, which have created separate problems in law enforcement. This is due to conditions in the field, storing necessities and/or essential goods before 3 (three) months has caused the scarcity of supplies of necessities and/or essential goods, so that in the context of cases of food hoarding, law enforcement cannot use Article 133 of the Law. Law Number 18 of 2012, because of the elements regulated in its technical regulations.

Criminal liability in Law Number 18 of 2012 on food is explicitly formulated in each of its articles. The legal subjects in Law Number 18 of 2012 are private persons and corporations. This can be found in Article 1 number 38 of Law Number 7 of 2014 which regulates the definition of each person, namely an individual or a corporation, both legal and non-legal. Criminal liability against the corporation can be imposed if the corporation carries out business activities in the food trade sector and the corporation is established and domiciled in the territory of Indonesia. Law Number 18 of 2012 regulates the location of the line of corporate criminal responsibility, namely to the corporation or its management. If the criminal act is committed by a corporation and prosecution is carried out against the management of the corporation, the corporate management must be responsible and can be sentenced to imprisonment and fines. If the criminal act is committed by a corporation, and the prosecution is carried out against the corporation, then the criminal sanction imposed is a criminal penalty with a weighting of 3 (three) times the individual punishment.

Article 133 is one of the articles in Chapter XV which regulates the criminal provisions of Law Number 18 the Year 2012 concerning Food, which in this Chapter covers Articles 133 to Article 148. Article 133 carries a maximum imprisonment of 7 (seven) years. , which is the heaviest imprisonment threat compared to other articles of criminal acts in that chapter, except for an act which results in the death of a person for which Article 146 paragraph (1) letter b is punishable by a maximum imprisonment of 10 (ten) years.

Food business actors who deliberately hoard or store more than the maximum amount as referred to in Article 53 to obtain a profit which causes the price of staple food to become expensive or to soar will be punished with imprisonment of up to 7 (seven) years or a maximum fine of Rp. 100,000,000,000.00 (one hundred billion rupiah).

Furthermore, the criminal law policy regarding the crime of food hoarding is also regulated in Law Number 7 of 2014 on Trade. Where in article 29 emphasizes that items prohibited from hoarding are necessities and important items that have been previously mentioned. Staple goods and essential goods are prohibited from being hoarded when there is scarcity, price fluctuations, and/or traffic barriers to trade in goods. The prohibition to store staple goods

and/or essential goods is sufficient by fulfilling one of the conditions in the market without fulfilling all three conditions of scarcity, price volatility, and trade traffic barriers. The prohibition to stockpile necessities and/or essential goods does not apply if these goods are used as raw materials or supporting materials in the production process or as supplies for distributed goods.

Article 29 of Law Number 7 of 2014, which stipulates the prohibition of owning essential goods / essential goods under certain conditions, requires a limit on the maximum amount that a business actor can have to store necessities and/or important goods and sets a period permitted for business actors to store basic needs and/or important goods in their warehouse. Referring to Article 107, the types of criminal sanctions imposed on legal subjects who commit the criminal act of hoarding in Law Number 7 of 2014 are using the main criminal sanction. The criminal sanctions in question are imprisonment and/or fines for business actors who violate Article 29 paragraph (1) of Law Number 7 of 2014. This confirms that the formulation of the types of criminal sanctions in Law Number 7 of 2014 still uses the type of sanction in the form of a single-track system. Based on the provisions of Article 107 of Law Number 7 of 2014, for business actors who are proven to have committed a criminal act as contained in Article 29 paragraph (1) of Law Number 7 of 2014, they are subject to imprisonment for a period not exceeding 5 (five) years and/or a fine, up to Rp. 50,000,000,000.00 (fifty billion rupiah).

To the formulation of criminal sanctions contained in article 107 of Law Number 7 of 2014, if the criminal act of hoarding committed by the business actor is proven, the formulation of criminal sanctions used is to use the formulation of criminal sanctions with a cumulative-alternative system, namely using imprisonment and fines or using one of the sanctions between imprisonment or a fine for an individual or business entity that commits a crime as defined in article 29 paragraph (1) of Law Number 7 of 2014. The criminal sanctions contained in Article 107 uses a special maximum criminal sanction, namely by determining the maximum threat of imprisonment and/or a fine in the formulation of the article.

## **CONCLUSION**

Based on the above discussion, the conclusion is that the criminal law policy to overcome the criminal act of hoarding food in positive legal provisions has been regulated in Article 133 of Law Number 18 of 2012 on Food and Article 107 of Law Number 7 of 2014 on Trade. Article 133 of Law Number 18 the Year 2012 on Food, can be a single indictment against a food business actor who hoarding or storing more than the maximum amount of staple food which results in the price of staple food becoming expensive or soaring, but if the food business actor continues the act of hoarding or save that after the price has become expensive or has

skyrocketed, then Article 107 of Law Number 7 of 2014 can be included, so that the indictment is in the form of a cumulative indictment.

## REFERENCES

- Adji, I. S. (2003). *Polri Antisipasi Perkembangan Kejahatan*. Jakarta: PTIK.
- Hadi, S. (2012). *Kudeta Putih: Reformasi dan Kelembagaan Kepentingan Asing dalam Ekonomi Indonesia*. Jakarta: Indonesia Berdikari.
- Kristiyanti, C. T. (2008). *Hukum Perlindungan Konsumen*. Jakarta: Sinar Grafika.
- Loqman, L. (2001). *Kapita Selekta Tindak Pidana di bidang Perekonomian*. Jakarta: Datacom.
- Lubis, A. F. (2009). *Hukum Persaingan Usaha antara Teks dan Konteks*. Jakarta: GTZ.
- Rahardjo, S. (1980). *Masalah Penegakan Hukum*. Bandung: Sinar Baru.
- Shant, D. (1988). *Konsep Penegakan Hukum*. Yogyakarta: Liberty.
- Soekanto, S. (2004). *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta: Raja Grafindo Persada.