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Application of Criminal Law to Perpetrators of Criminal Acts in the Distribution of Processed Foods Does Not Meet Food Safety Standards in the Upstream and Downstream Sectors in Palembang City

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Abstract: *The research questions are: How is criminal law applied to perpetrators involved in the distribution of processed food that fails to meet food safety standards within the upstream and downstream sectors in Palembang City? And what factors contribute to the occurrence of criminal offenses related to the distribution of processed food that fails to meet food safety standards within the upstream and downstream sectors in Palembang City? This study employs an empirical juridical research method, using both primary and secondary data through a case-based approach. The findings indicate that the application of criminal law regarding the distribution of processed food that fails to meet food safety standards in the upstream and downstream sectors of Palembang City is carried out through supervision and inspections by the BBPOM (Indonesian Food and Drug Authority); however, this process is not yet optimal, as it remains contingent upon proving the elements of the criminal offense and the culpability of the perpetrator. Furthermore, the factors contributing to these criminal offenses include a lack of legal understanding and compliance among business operators, challenges in supervision and law enforcement, limited facilities and infrastructure, low public awareness, and a tendency to prioritize profit and low prices over food safety.*

Keywords: *Application of Criminal Law, Perpetrator, Criminal Offense, Distribution of Processed Food That Does Not Meet Food Safety Standards*

INTRODUCTION

Food is a basic human need that holds a crucial position in the life of the nation and state. Food not only serves as a source of fulfillment for human biological needs but is also closely related to the quality of health, productivity, and the sustainability of society. In the context of national development, food is a strategic element because the level of food availability and security can influence a country's social and economic stability, and even national resilience (Sidabalok, 2022). Therefore, the state is obliged to ensure the availability

of safe, high-quality, nutritious, and consumable food for all citizens as a form of protection of human rights in the areas of health and social welfare (Nasution, 2021).

Globalization and economic modernization have brought about significant changes in people's consumption patterns. Advances in food industry technology and increased trade have led to the rapid growth of processed food products in various regions. Modern society tends to choose processed foods because they are considered more practical, readily available, offer a wide variety, and save time in preparation (Kristiyanti, 2023). This condition has led to an increase in the production and distribution of processed foods, both those produced by large companies and micro, small and medium enterprises (MSMEs).

The growth of the processed food industry essentially contributes positively to national economic growth through increased investment, job creation, and the development of the community business sector (Widjaja & Yani, 2022). However, the development of the processed food industry also brings consequences, giving rise to various legal and public health issues. The high market demand for processed foods is often exploited by certain business actors to gain economic profits without regard to food safety standards stipulated in laws and regulations (Wahyudi & Dwitami, 2025). As a result, many processed food products are still found to be produced and distributed without meeting food safety standards, such as the excessive use of food additives, the use of hazardous substances such as formaldehyde, borax, and rhodamine B, products without distribution permits, and the inclusion of labels that do not correspond to actual conditions (Agustini et al., 2025). Such practices not only harm consumers economically but can also endanger public health and even life.

Food safety is essentially the conditions and efforts required to prevent food from possible biological, chemical and other contamination that can harm human health. According to Wiku Adisasmito (2022), food safety is an important part of the public health system because unsafe food can be a medium for spreading disease and cause health problems in the short and long term. Therefore, consumer protection in the food sector is very important to provide security and safety guarantees for the public in consuming processed food products.

Consumer protection from a legal perspective is all efforts that guarantee legal certainty to provide protection to consumers. Ahmadi Miru and Sutarman Yodo stated that. Consumer protection aims to create a balance between business interests and consumer rights, ensuring that consumers are not harmed by irresponsible business practices. In relation to food, this legal protection is realized through regulations regarding food quality standards, distribution permits, labeling, production hygiene, and supervision of food products circulating in the community (Miru & Yodo, 2021).

Normatively, Indonesia has various legal instruments governing food safety and consumer protection. Law Number 18 of 2012 concerning Food stipulates that all food distributed must meet safety, quality, and nutritional standards. In addition, Law Number 8 of 1999 concerning Consumer Protection provides consumers with the right to obtain comfort, security and safety in consuming goods and/or services.

These provisions demonstrate the government's serious commitment to protecting the public from hazardous or unfit food products. However, despite comprehensive food safety regulations, violations of food safety standards are still common in practice. The Food and Drug Monitoring Agency (BPOM) continues to find various illegally processed food products that lack distribution permits or contain hazardous substances prohibited for use in food (Simatupang et al., 2026). This situation indicates that business compliance with legal provisions remains relatively low. Many businesses prioritize economic profit over consumer safety. Furthermore, practices such as label falsification, misuse of BPOM registration numbers, and the inclusion of misleading information on processed food product packaging are also common (Asmita, 2025).

These issues demonstrate that food safety concerns are not merely administrative or public health issues but have also evolved into criminal law issues. According to Adami Chazawi, criminal law serves to protect the legal interests of the public from harmful or dangerous acts (Chazawi, 2022). In food crimes, the distribution of processed foods that do not meet food safety standards can be categorized as an unlawful act because it has the potential to endanger the health and safety of the wider community. Unsafe food products can cause food poisoning, foodborne diseases, organ disorders, and even death (Maesaroh et al., 2025). Therefore, enforcing criminal law against perpetrators of food crimes is crucial as a form of public protection and an effort to create a deterrent effect for business actors.

This situation can also be found in Palembang City, one of the major cities and commercial centers in South Sumatra Province. Palembang City has a rapidly growing culinary and processed food industry, including regional specialties, fast food, and MSME food products. The high production and distribution of processed foods in Palembang City certainly has consequences for the increased potential for violations of food safety standards. Based on the results of monitoring and research related to food hygiene and sanitation in Palembang City, processed food products are still found to be produced without regard to hygiene standards, using food additives that do not comply with regulations, and products that do not have official distribution permits (BBPOM Palembang, 2025). This indicates that food safety supervision in the region is still suboptimal.

One case uncovered by the Food and Drug Monitoring Agency (BBPOM) in Palembang involved the discovery of approximately 330 kilograms of wet yellow noodles in 15 Ulu Village, Jakabaring District, Palembang City, suspected of containing hazardous materials and ready for distribution to the public. The discovery was made during surveillance activities at a wet noodle production site in Palembang City and subsequently followed up through an investigation by the authorities. This case demonstrates that violations of food safety regulations occur not only at the distribution stage but also throughout the production phase. Therefore, food oversight is a crucial aspect of the national food safety system. Effective upstream oversight is expected to prevent the entry of food products that do not meet safety standards into the distribution chain, thus optimally ensuring consumer health and safety (BBPOM in Palembang, 2022).

Furthermore, in addition to the production stage, food safety crimes are also found downstream or in distribution. Monitoring by the Food and Drug Monitoring Agency (BBPOM) in Palembang during various food inspection activities shows that processed foods containing formaldehyde and Rhodamine B are still being circulated and sold to the public. During intensified food inspection activities during Ramadan 2024, BBPOM Palembang officers found five of 279 food samples that tested positive for formaldehyde and Rhodamine B. These food products were found circulating at several monitoring locations, including Cinde Market, 16 Ilir Market, Kuto Market, and several Ramadan takjil (snack-free snacks) sales centers in Palembang City. These findings indicate that food products that do not meet safety standards can still pass through the distribution chain and reach consumers. This condition indicates that supervision of food distribution and trade channels still needs to be strengthened to ensure public health protection and prevent the circulation of food containing hazardous substances (ANTARA, 2024).

Data on enforcement actions taken by the Palembang Food and Drug Authority (BPOM) also shows that violations are still found annually, including the distribution of food without distribution permits, the use of prohibited food additives, labeling that does not comply with regulations, and the distribution of food products that do not meet safety and quality standards. Several cases have even been processed through *pro justitia mechanisms* because they meet the elements of criminal acts as stipulated in Law Number 18 of 2012 concerning Food and other related laws and regulations (ANTARA, 2024).

Food safety oversight is essentially a shared responsibility between the government, businesses, and the public. The government, through the Food and Drug Monitoring Agency (BPOM), has the authority to conduct pre-market and post-market monitoring of food products circulating in the community (Prastianti et al., 2023). However, the implementation of this supervision still faces various obstacles, such as limited human resources, the vast scope of supervision, low legal awareness among business actors, and limited public knowledge about the importance of choosing safe food products. As a result, processed food products that do not meet food safety standards are still easily found on the market. In addition to weak supervision, law enforcement against perpetrators of food crimes has also been ineffective.

Legal sanctions often fail to provide a deterrent effect, resulting in repeated violations of food safety standards (Sidabalok, 2022). Yet, food-related crimes have far-reaching impacts on public health and national food security. Therefore, stricter and more effective law enforcement is needed against any business entity producing or distributing processed foods that fail to meet food safety standards (Prasetyo, 2023).

This issue is becoming increasingly important to study, particularly in Palembang City, which has a high level of processed food trade activity. Therefore, this research is crucial to analyze the types of crimes that occur, the application of criminal law provisions to perpetrators, and the factors influencing the effectiveness of law enforcement in the field of food safety. This research is expected to provide theoretical contributions to the development of criminal law and consumer protection, as well as provide input for the government and law enforcement officials in improving supervision and public protection of processed food products circulating in Palembang City.

The problem formulation is how to apply criminal law to perpetrators of criminal acts in the distribution of processed foods that do not meet food safety standards in the upstream and downstream sectors. In Palembang City? And what factors influence the occurrence of criminal acts in the distribution of processed foods that do not meet food safety standards in the Upstream and Downstream Sectors in Palembang City?

METHODS

This study uses an empirical legal research method. The main data in this study are primary data obtained directly from primary sources in the field through empirical research through interviews, and secondary data obtained through library studies or research on various legal materials and literature related to the research object. Data processing and analysis in this study were conducted qualitatively using a descriptive analytical approach. Data collection techniques in this study were carried out through field research *and* library research. This study uses a qualitative approach.

RESULTS AND DISCUSSION

Implementation of Criminal Law against Perpetrators of Criminal Acts in the Distribution of Processed Foods that Do Not Meet Food Safety Standards in the Upstream and Downstream Sectors in Palembang City

The application of criminal law against perpetrators of crimes involving the distribution of processed foods that do not meet food safety standards in the upstream and downstream sectors in Palembang City is part of an effort to protect the public from food risks that can endanger health. The upstream sector includes food production and processing activities, while the downstream sector includes the storage, distribution, sale, and distribution of food to consumers. Violations in both sectors need to be addressed through monitoring and law enforcement mechanisms that are in accordance with the characteristics of the acts and the provisions of laws and regulations.

From a criminal law perspective, alleged violations of food safety standards require investigation based on the provisions governing such acts. Investigations should be directed at determining whether the perpetrator committed a prohibited act, whether their actions meet the elements of a criminal offense, and whether there is any fault for which they can be held accountable. Therefore, the presence of food that does not meet food safety standards is the starting point for an investigation, not the sole basis for immediately concluding a person's guilt.

Administrative action can be used within the authority to address violations within the scope of supervision (Nawawi et al., 2026). However, if the facts found meet the suspicion of a criminal offense, the case must be processed through an investigative and criminal investigation mechanism in accordance with applicable law. These two paths must be distinguished based on the legal basis and purpose of the action. Based on Simons' theory, the application of criminal law requires proof that extends beyond the actual violation of food safety standards. Authorities must also assess the perpetrator's connection to the prohibited act and the required elements of culpability. This approach is necessary so that law enforcement focuses not only on identifying problematic products but also on determining legally justifiable criminal liability.

The downstream sector plays a crucial role in the processed food distribution chain. Products produced reach consumers through distributors, traders, retailers, and other business actors. Therefore, oversight at the distribution stage is necessary to prevent products that do not meet food safety standards from reaching the public.

The application of criminal law to the downstream sector must be carried out by differentiating the status and roles of each party. Producers, distributors, and traders cannot be automatically treated the same way because their involvement, knowledge, authority, and forms of conduct may differ. Investigations need to determine whether the parties distributing or selling the product have committed acts that fulfill the elements of a criminal offense under applicable regulations.

Laboratory test results are a crucial part of food safety oversight activities because they provide technical information regarding the condition of the samples examined. Through these tests, the Food and Drug Authority (BPOM) can assess a product's compliance with food safety requirements and determine necessary actions based on the results. In relation to the application of criminal law, laboratory test results can be used as supporting material for following up on alleged violations. However, test results must be understood within their scope, namely describing the condition of the sample being examined. Determining whether an act meets the elements of a crime requires an assessment of relevant legal provisions and other evidence related to the act and the alleged party responsible.

In the upstream sector, evidence must explain the link between the production process and the alleged food safety violation. Examination of production sites, raw materials, additives, purchasing documents, and worker statements can help reveal how products are produced and who is involved in the process. Difficulties can arise when production activities involve several people with different roles. Business owners, production managers, workers, and material suppliers cannot all be held criminally liable. Investigators must distinguish their roles and prove their involvement based on the facts.

Fault is a crucial aspect of criminal liability, but the type of fault that must be proven depends on the formulation of the offense. If criminal provisions require intent or negligence, investigators must gather relevant evidence to prove that form of fault. If the law stipulates specific provisions regarding liability, those provisions must be examined separately (Muhammad, 2022). Therefore, evidence in the upstream sector must be able to explain not only the existence of a non-compliant product, but also who committed or was responsible for the act that fulfills the elements of a criminal offense.

In implementing supervision of the circulation of processed foods in the downstream sector, it is necessary to examine the steps taken by the Food and Drug Monitoring Agency (BBPOM) in Palembang in examining circulating products, taking samples, and tracing information regarding the origin of the products.

In the upstream sector, supervision is directed at meeting food safety requirements during production and processing. In the downstream sector, supervision focuses on products in circulation and sold to the public. These two sectors are interconnected because problematic products can originate from production processes that do not meet requirements or from violations during the distribution and sales stages. Findings regarding non-compliant products must be distinguished from conclusions about individual culpability. While the results of supervision and testing can shed light on the condition of a product, determining criminal liability requires proof of the elements of the crime, the perpetrator's capacity to accept responsibility, and the nature of the culpability required by the applicable provisions. Therefore, the application of criminal law to the distribution of processed foods that do not meet food safety standards cannot rely solely on laboratory test results. These results must be placed within a body of relevant evidence to assess the alleged act and the responsible parties. The role of the Food and Drug Authority (BPOM) in monitoring and documenting findings is crucial to support follow-up actions within its authority and to strengthen consumer protection.

In the upstream sector, inspections focus on production and processing activities, including raw material selection, use of additives, packaging processes, and decision-makers. If suspected violations are discovered, investigators need to determine who committed or is responsible for the violations. The status of business owner or production manager should be assessed alongside evidence of involvement and culpability, not the sole basis for accountability.

In the downstream sector, investigations focus on product storage, transportation, distribution, and sales. Tracing is necessary to determine the distribution channels and roles of producers, suppliers, distributors, and traders. The application of criminal law must be based on the fulfillment of the elements of the offense for each party. Therefore, the person selling the product cannot be directly held liable for the same thing as the person producing it without examining their respective roles and circumstances.

Factors Influencing the Occurrence of Criminal Acts in the Circulation of Processed Foods that Do Not Meet Food Safety Standards in the Upstream and Downstream Sectors in Palembang City

1. **Legal factors**

   Legal factors relate to the clarity, completeness, and implementation of provisions governing food safety. Law Number 18 of 2012 concerning Food serves as one of the primary legal bases for regulating food safety and prohibiting actions that endanger consumers.

   In the upstream sector, legal factors relate to business actors' compliance with requirements for raw materials, production processes, processing, and product safety. Meanwhile, in the downstream sector, legal compliance relates to storage, distribution, labeling, distribution permits (if required), and the sale of processed foods to the public. Violations of these provisions need to be assessed based on the type of act and the regulations that specifically regulate it. To understand the legal provisions that form the basis for monitoring processed foods in the upstream and downstream sectors, information is needed from BBPOM officers in Palembang regarding the implementation of regulations and follow-up on violations. The following is an interview format that needs to be adjusted to the actual information from the source. Aquirina Leonora , a BBPOM officer in Palembang, revealed:

2. Law enforcement factors

Law enforcement factors relate to the quality of the implementation of supervisory, investigative, and prosecution duties by authorized agencies. The Food and Drug Monitoring Agency (BPOM) in Palembang plays a crucial role in product supervision and testing within its jurisdiction, while criminal cases are handled by authorized investigators based on statutory regulations. The effectiveness of these duties can impact the ability to identify and address alleged violations in both the upstream and downstream sectors.

The importance of carrying out supervisory duties carefully and consistently. In the upstream sector, inspections are directed at production and processing processes, while in the downstream sector, supervision focuses on products stored, distributed, and sold to the public. Accurate inspections can help identify the source of violations and determine appropriate follow-up steps.

3. Facilities and Infrastructure Factors

Facilities and infrastructure include the availability of supervisory personnel, laboratory facilities, testing equipment, transportation, information systems, and budget support. Limited facilities can impact the intensity of inspections at production sites, traditional markets, food sales centers, and other distribution channels. Facilities and infrastructure factors include the availability of human resources, laboratory facilities, examination equipment, transportation, information systems, and operational support for supervision. The availability of these facilities impacts the ability of the Palembang Food and Drug Authority (BPOM) to reach business actors and checking processed food products circulating in Palembang City.

4. Community factors

Societal factors relate to the level of knowledge, legal awareness, and compliance of business actors and consumers. Business actors who prioritize profits without considering food safety requirements are at risk of committing violations, while consumers who lack an understanding of the characteristics and risks of hazardous foods may experience difficulties in choosing products safe.

Public knowledge and compliance can influence the risk of food safety violations. Businesses that don't understand or ignore applicable requirements are at risk of marketing substandard products. Conversely, consumers who are less careful in selecting products can increase the likelihood of problematic products being purchased and circulated among the public.

5. Cultural factors

Cultural factors relate to the values, customs, and behavioral patterns that develop within a society. Businesses' habits of using certain ingredients passed down through generations, if not accompanied by an understanding of food safety regulations, can perpetuate risky practices.

Cultural factors are closely related to the values underlying societal attitudes toward the law. Therefore, coaching and education should be directed at developing business habits that comply with food safety standards. However, any suspicion of habits that encourage violations must be substantiated through interviews and observations to prevent analysis from being based on generalizations about business actors.

CONCLUSIONS AND RECOMMENDATIONS

First, Notaries and Land Deed Officials (PPAT) are public officials who The application of criminal law against perpetrators of criminal acts in the distribution of processed

foods that do not meet food safety standards in the Upstream and Downstream sectors in Palembang City has been implemented through supervision and inspection by the BBPOM in Palembang as well as follow-up on alleged violations according to their authority. However, its implementation has not been optimal because criminal liability must be supported by proof of elements of the crime, the ability to be responsible, and the perpetrator's fault in accordance with applicable legal provisions. Second, Factors that cause criminal acts in the distribution of processed foods that do not meet food safety standards in the upstream and downstream sectors in Palembang City include legal factors in the form of low understanding and compliance of business actors with food safety provisions; law enforcement factors in the form of challenges in supervision, product tracing, and follow-up of violations; facilities and infrastructure factors in the form of limited officers, testing facilities, and inspection equipment; community factors in the form of low legal awareness of business actors and consumer accuracy; and cultural factors in the form of the habit of prioritizing profits and low prices without paying attention to food safety standards.

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