

LEGAL PROTECTION FOR CONSUMERS AGAINST ILLEGAL PHARMACEUTICAL DRUG SALES

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Abstract

The purpose of this study is to provide a clear picture of the mode of selling illegal pharmaceutical drugs online, as well as to examine the form of legal protection for consumers in the sale of illegal pharmaceutical drugs online. This research was conducted at the office of the Food and Drug Supervisory Center of Gorontalo Province. This research uses normative research methods but is supported by empirical data and uses a qualitative approach through descriptive analysis methods of secondary data. Through a legal approach, this research examines existing regulations and sanctions for lawbreakers related to illegal drugs and a conceptual approach to build an ideal model of legal protection. The results show that the mechanism for selling illegal pharmaceutical drugs online is carried out through various modes, including falsification of distribution permits, use of unregistered digital platforms, and misuse of information technology. The form of legal protection for consumers on the sale of illegal pharmaceutical drugs online must be strengthened through clear regulations and strict law enforcement. Although consumer protection laws and health laws have provided a legal basis for consumers to protect themselves from unfair trade practices, there are still many challenges in implementing and enforcing laws that are less effective and have been unable to keep up with the times.

Keywords: *Illegal Drugs; Consumer Protection; Legal Protection.*

INTRODUCTION

Health symbolizes one of the capitals for the continuation of human life. A person's productivity and activity are influenced by the condition of that person's health. Health symbolizes the state of health of the body, soul, and social life, allowing everyone to live socially and economically productive lives. (Hijawati, 2020).

Health efforts primarily include the management of health resources, services, and protection. Health symbolizes the rights of every citizen. Health is the main capital of every citizen in daily activities. If a person is in an unhealthy condition, their activities and productivity will be disrupted. The fundamental right to health for citizens is guaranteed by the

government as stated in the 1945 Constitution of the Republic of Indonesia, which has been emphasized in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which stipulates that, "Every person has the right to live in physical and mental prosperity, to live in a place of residence, and to obtain a good and healthy living environment and has the right to obtain health services" (Toyib et al., 2024)

In fulfilling these obligations, the government can regulate and manage health services. (Susetiyo & Ifitah, 2021) One of the essential elements in health services is medicine, so the community needs to be knowledgeable about the proper use of drugs. (Ariestiana, 2020)



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Based on the development of technology, the marketing process in the drug trade, the process of drug distribution, the distribution of drugs or drug sellers, and the process of obtaining drugs are experiencing technological developments. In this regard, the Food and Drug Supervisory Agency (BPOM) carries out its duties as an institution, including drug supervision and distribution.

However, in this rapid development of technology, behind its convenience, various problems arise related to consumer safety and protection, especially in the mechanism of selling illegal pharmaceutical drugs online.

One of the negative impacts of e-commerce is the problem of security in transactions in terms of the confidentiality of goods, how to ensure that the goods sent are guaranteed to be intact, the safety of the goods in the recipient's hands, the validity of the transaction actors, and the authenticity of the goods.(Barkatullah, 2017).

Consumers have the right to safety, comfort, and security when consuming goods or services. They also have the right to choose the product they want, based on the promised exchange rate, guarantee, and product condition. Consumers have the right to receive clear, correct, and honest information about the warranty and condition of the goods or services they receive. In addition, consumers can express their complaints and opinions and obtain protection, advocacy, and dispute resolution. (Wirasto et al., 2024). Wijaya (2020) The weak position of consumers over online buying and selling activities compared to producers means that legal protection

against consumers is felt to be very necessary, especially in the problem of the mechanism of selling illegal pharmaceutical drugs online, where a form of consumer legal protection is needed.

RESEARCH METHOD

This research was conducted at the Food and Drug Monitoring Agency (BPOM) of Gorontalo Province. It represents a normative type of research covering a wide range of topics, including legal principles, legal systematics, vertical and horizontal synchronization, comparative law, and legal history. (Sampara & Husen, 2016; Soekanto & Mamudji, 2010). This research uses three approaches, namely the Law approach, which according to (Marzuki, 2005). Case approach through examining cases related through legal problematics. (Irwansyah & Yunus, 2020) And a conceptual approach that departs from the views and doctrines that develop in legal science. Legal sources are Law No. 8 of 1999 on Consumer Protection and Law No. 17 of 2023 on Health. The data collected will be organized systematically. (Pasamai, 2013) The data collected represents qualitative data and is analyzed qualitatively.

RESULT AND DISCUSION

Mechanism of Illegal Pharmaceutical Sales Mode Online

The sales mechanism that still relies on shipping drugs in disguised packaging shows that this problem needs serious handling, to minimize the circulation of illegal pharmaceutical drugs, there must be a technological approach through blocking platforms that sell illegal goods and awareness from the public of the

dangers of consuming illegal pharmaceutical drugs, the public is also expected to participate through not buying illegal pharmaceutical products. A safer way for the public is to purchase pharmaceutical products from official facilities, namely hospitals, licensed drug stores, pharmacies, health centers and use them according to the rules of use that have been recommended through a doctor's prescription, and for online purchases of pharmaceutical drugs, it is recommended to buy through electronic platforms that have obtained a license to operate a pharmaceutical electronic system (PSEF). Consumers should always check the packaging, label, distribution permit, and expiration date before buying illegal pharmaceutical drugs for consumption.

Not all pharmaceutical products sold online meet health standards or follow applicable regulations. This phenomenon is a serious concern because it impacts legality and public health. It not only violates the law but also has the potential to endanger the health of consumers who are not aware of the risks of the products they buy. (Pantow et al., 2024). Allowing the circulation of drugs that do not have a license is the same as allowing crime to flourish in society. This is also because there are opportunities for criminality, both small and large offenses. The lack of understanding from the public about the dangers of consuming illegal drugs is one of the factors contributing to the success of the circulation of illicit drugs. (Cahyaningtiyas et al., 2022).

There are not a few products in circulation. There is a registration number, but after further research, it turns out it is not registered with BPOM.

(Kurniawan et al., 2022) The most common mode of operation is disguised as an official online store on e-commerce platforms or social media. This risk arises because the transaction between the seller and the buyer is not done face-to-face, but through the internet media (virtual world), which is often difficult to trace. (Fauzi, 2018). BPOM, as an institution specifically tasked with maintaining the safety of drug and food distribution, always supervises and monitors offline and online.

1. Sales Mode Using E-commerce Platform

One of the primary modes used is the e-commerce platform. The internet can support the overall practice of commercial activities. Through e-commerce, consumers can shop worldwide at any time, from any location. (Barkatullah, 2017). Sellers usually list illegal products through vague descriptions or use terms that do not directly refer to pharmaceutical drugs. Some even disguise the products as other items, such as dietary supplements or cosmetics. This strategy aims to circumvent the platform's monitoring algorithms and automatic removal policies for illegal products. In response to this issue, several e-commerce companies have stated their position to crack down on perpetrators who sell products without permission from their platforms. JD.ID dares to advertise that it does not market counterfeit goods. (Shalmont et al., 2023)

This strategy shows a gap in the monitoring system implemented by e-commerce platforms. The ineffectiveness of automated detection algorithms provides room for perpetrators to continue

operating. The platform's role in conducting manual audits of registered products is still less than optimal. Technology enables individuals to engage in various economic, service, and other sectors at any location and time. (Agfanwarman & Nugroho, 2025) In addition, the low level of reporting by consumers of suspicious products contributes to the prevalence of this mode. Efforts to increase transparency and consumer education need to be made to reduce the use of platforms as a medium for illegal transactions.

2. Sales Mode Using Social Media Promotion

Social media is an effective promotional tool for perpetrators. Platforms like Facebook, Instagram, or TikTok often display products through uploads or videos. In simple terms, online or digital marketing is a marketing strategy that utilizes the internet. Marketing activities to gain consumer attention through utilizing sales through social media, websites, emails, and even augmented reality. (Mulyantomo et al., 2022). The existence of this feature is an attraction for illegal drug business actors to use it as a means to operate online businesses more easily. (Aswari et al., 2025; Ridwan, 2021) Transactions are usually not conducted directly on the platform but through the direct message feature. This mode utilizes the popularity of social media as a cheap and accessible marketing tool.

Promotion through social media highlights how actors creatively utilize these platforms to reach consumers. Social media algorithms often prioritize high-engagement content, allowing

advertisements for illegal products to spread easily. Lack of direct message activity monitoring is a significant challenge in preventing transactions and strengthening collaboration between platform providers and the government to improve detection and reporting of illegal content.

3. Sales Mode through Utilizing Closed Chat Groups

Instant messaging applications such as WhatsApp, Telegram, or Line are often used for more private transactions. Using these platforms leads to more interpersonal communication through the personal chat feature. However, group communication can also be done through the group chat feature. (Farouqy & Ridla, 2022) Sellers form closed groups that can only be accessed by certain members. These groups usually only accept new members through the recommendation of existing members, making it difficult for authorities to monitor their activities. These groups are also often used to share information related to payment and shipping methods.

The use of closed chat groups indicates that perpetrators are getting smarter in maintaining the privacy and exclusivity of their networks. The main challenge in addressing this mode is the limited access of authorities to private groups. In addition, the trust between group members makes reporting illegal activities minimal. Technology-based approaches, such as using artificial intelligence to detect suspicious communication patterns, are needed as mitigation measures.

4. Sales Mode through the Use of Illegal Websites

Another modus operandi is to create specialized websites designed to offer illegal pharmaceutical drugs. These websites often use difficult-to-trace domains, such as domains ending in “.onion,” which can only be accessed through the dark web. The dark web refers to an online platform that has no legal authorization and is often controlled by organized drug networks that sell illegal goods. (Pranasita et al., 2023)

In addition, the site's hosting is usually offshore to avoid the scrutiny of local authorities. These sites often blatantly offer a variety of products, including illegal or unlicensed drugs.

Illegal websites show how actors exploit loopholes in cross-border regulations. Many unlawful sites choose to be hosted in countries with looser regulations, making it difficult for the user's home country to shut down access to the site. This creates significant challenges for law enforcement, as effective legal action often requires complex but sometimes inefficient international cooperation. Perpetrators frequently change domains regularly to avoid tracking. Researchers recommend strengthening international collaboration in restricting access to high-risk domains and developing automated detection tools for illegal sites. Hosting sites outside local jurisdictions makes shutdown efforts difficult.

5. Sales Mode through Independent Courier Delivery

The presence of goods delivery service couriers facilitates a transaction, as goods delivery couriers usually deliver

packages or goods purchased due to an online buying and selling transaction. (Pemasela et al., 2023). Shipments of illegal products are typically made through independent courier services or delivery service providers that do not record the details of the sender and recipient. Some perpetrators even utilize private courier services specifically designed to avoid tracking. This mode allows the products to reach the buyer without leaving an administrative trail that the authorities can use as evidence.

The mode of delivery through independent couriers points to weak regulations in the logistics sector. Researchers found that the lack of mandatory recording of delivery details is a loophole that the perpetrators exploit. In addition, the low awareness of illegal products among delivery service providers exacerbates the situation. Implementation of mandatory identification policies for senders and receivers as a preventive measure.

6. Sales Mode through Falsification of Product Licenses and Labels

Drugs that are produced by parties that are not authorized under the applicable laws and regulations or that are made through marking that imitates the identification of other medications that have distribution permits are referred to as counterfeit drugs. (M. H. Tarigan et al., 2022) The products sold often include false claims, such as having a license from a health authority, such as the BPOM in Indonesia. To convince buyers, perpetrators falsify product labels or packaging to make them look legitimate products. This falsification not only deceives consumers but also makes it

difficult for authorities to distinguish between legal and illegal products.

The falsification of product licenses and labels reflects the perpetrators' efforts to enhance the credibility of their illegal products. The lack of consumer awareness of the importance of verifying product licenses is a significant factor in the success of this *modus operandi*. Strengthen consumer education campaigns and develop digital applications to verify product legality publicly.

7. Sales Mode through Low Price Offers and Attractive Promotions

Perpetrators usually attract consumers by offering very low prices compared to market prices. In addition, they often provide promotions such as massive discounts or purchase bonuses to attract the attention of potential buyers. This strategy effectively attracts consumers unaware that the product is illegal or risky. Drug prices can also be a factor in people consuming drugs without a prescription. Drug products with much lower prices are more attractive to the public because of the mindset of people who want the best medicine, but at low prices. (Tarigan et al., 2023)

Low-price offers and attractive promotions show how actors utilize consumer psychology to overcome skepticism. Consumers tempted by low prices tend to ignore legality and product safety aspects. To prevent this mode from continuing, the government must work together through digital platforms to educate the public about the risks of cheap products that are not guaranteed safe.

Understanding the mechanisms of this illegal trade mode of operation will lead to better surveillance strategies, more technology-adaptive regulations, and more effective preventive measures. This is a crucial step to protect the public from health risks, maintain trust in pharmaceutical products, and ensure that legal and ethical principles are followed in online trade.

Through this research, it was revealed that several main factors, such as weak supervision, loopholes in online trade regulations, and low legal and health literacy among consumers, drive the mechanism of illegal pharmaceutical drug circulation online. The diverse and difficult-to-detect *modus operandi* shows the need for a more sophisticated and holistic approach to addressing this issue. The circulation of unqualified medicines is becoming increasingly alarming, with many of the products available in the Indonesian market today originating from imports without the proper legal procedures.

Several steps can be taken to determine whether the medicine purchased is legal, including: 1) Consumers need to check the Edar License Number (NIE) issued by BPOM for each type of food, medicine, and cosmetics. Illegal products will certainly not have the NIE. 2) Observation of products and labels. Consumers need to observe the products and labels used. Illegal drugs usually use unclear labels and products that have contrasting colors and unknown manufacturer names. 3) Unreasonable price. If the price of the medicines purchased is much cheaper than the market price, it can be suspected that the product is illegal.

As consumers, the public needs to raise awareness of the dangers of illegal drugs. The following are mitigation patterns that can be implemented to prevent the broader distribution of illegal drugs: 1) The public needs to increase knowledge by following and reading information submitted by BPOM. 2) Use the DAGUSIBU principle, which stands for get, use, store, and dispose of properly, which means that consumers get drugs from trusted sources, use according to the instructions given by the doctor or pharmacist, store safely, and dispose of drugs if they have expired. 3) If the public finds drugs that do not have a distribution permit, immediately report to BPOM to follow up on the circulation of illegal drugs.

Forms of Legal Protection for Consumers on the Sale of Illegal Medicines Online

According to the author, preventive legal protection provided by the government has not been fully implemented. Preventive measures, which provide opportunities for the community to voice their objections, are expected to be better implemented by the government. The opinions expressed by the community can assist the government in establishing legal protection through regulations and laws. The community, as consumers, needs to voice their objections regarding the sale of illegal drugs online, as this activity is hazardous, especially for consumers who consume illicit drugs.

The legal protection provided by the government has not fully addressed the activities of e-commerce, particularly in the UUPK. The concerns raised by the public can be used as a reference for the

government to formulate regulations based on the community's wishes. In addition to preventive legal protection, the government also provides repressive legal protection in the form of law enforcement for anyone found guilty. According to the author, preventive legal protection offered by the government has not been fully implemented. Preventive measures, which provide opportunities for the community to voice their concerns, are expected to be more effectively implemented by the government. The opinions expressed by the community can assist the government in establishing legal protection through laws and regulations. In the issues raised by the author in this article, the community, as consumers, needs to voice their concerns regarding the sale of illegal drugs online, as this activity is hazardous, especially for consumers who use illicit drugs. The legal protection provided by the government has not fully addressed the activities of e-commerce, particularly in the UUPK. The concerns raised by the public can be used as a reference for the government to formulate regulations based on the community's wishes. In addition to preventive legal protection, the government also provides repressive legal protection in the form of law enforcement for anyone found guilty. (Ibrahim, 2007)

1. Forms of Consumer Protection Based on Laws and Regulations

Legal protection for consumers against the sale of illegal drugs online in Indonesia is regulated by various laws and regulations that prioritize consumer protection and the enforcement of legal action against violations related to the sale of prohibited drugs. The following are some forms of legal protection available:

- a. Consumer Protection Based on the Consumer Protection Law (UUPK) No. 8 of 1999, Article 4 of the Consumer Protection Law states the rights of consumers, including the right to safety, comfort, and accurate information about the products they purchase. Illegal drugs sold online clearly violate consumers' rights to obtain accurate information about safe medications and to meet quality standards. Those who sell illegal drugs are responsible for providing compensation or restitution if consumers are harmed by the products they purchase. The Consumer Protection Law is based on benefit, fairness, balance, consumer safety and security, and legal certainty. (Sidabalok, 2014)
- b. Regulation of the Food and Drug Supervisory Agency No. 7 of 2024 on Standards for the Manufacture of Good Quality Medicines, This regulation, as stipulated in Article 6, explains that those who fail to comply with the CPOB standards will be subject to administrative sanctions in the form of warnings, severe warnings, temporary suspension of activities, revocation of the CPOB certificate, revocation of the CPOB certificate, suspension of business licenses, suspension of distribution permits, revocation of distribution permits, revocation of business licenses, temporary prohibition on distribution, and/or orders to recall drugs or drug ingredients from circulation, and temporary closure of access to submit applications for business licenses.
- c. Health Law No. 17 of 2023 provides health protection for the public, particularly in Article 138, which states that pharmaceutical preparations, medical devices, and PKRT must be safe, effective/beneficial, of high quality, and affordable, as well as comply with halal product certification requirements by the provisions of applicable laws and regulations.
- d. Regulation of the Food and Drug Supervisory Agency No. 14 of 2024 on the Supervision of Drugs and Food Products Distributed Online, this regulation provides protection, particularly in Article 5, which states that drugs and food products distributed online must have a distribution license under the provisions of the law. This provides sufficient protection for consumers. In line with the decreasing cases of illegal drug circulation in Gorontalo Province, there were 6 cases in 2022 and only 1 case found in 2024.

2. Preventive Legal Protection

Preventive legal protection allows legal subjects to submit objections or opinions before a government decision takes definitive form. It aims to prevent problems or disputes from arising. (Almaida & Imanullah, 2021) His means that legal protection symbolizes the functioning of the law. To achieve the objectives of the law, namely justice, benefit, and legal certainty (Susanto, 2023).

The BPOM performs preventive protection by establishing a Drug and Food Monitoring System. Business operators play a highly strategic role

because they ensure compliance with standards and requirements set by applicable regulations related to the production and distribution of drugs and food, thereby providing the safety, effectiveness, and high quality of medicines and food produced and distributed. (Zulham, 2013)

To improve the effectiveness of BPOM supervision, strategic steps are needed, such as increasing the number of supervisors, optimizing the use of technology in supervision, and increasing public education on the dangers of using illegal drugs. In addition, coordination with relevant agencies, such as the police and the Ministry of Health, must be strengthened to combat the circulation of illicit drugs more effectively.

3. Repressive Legal Protection

Repressive legal protection aims to resolve disputes. The role of law in society is to provide legal protection to members of society whose interests are harmed by other parties and/or authorities acting arbitrarily. Consumer protection is achieved through repressive measures and requires actions as an essential factor in implementing consumer protection. As the supervisory body, one of the preventive measures taken by the BPOM is issuing permits for products to be distributed to the public. The registration process is strictly carried out by applicable regulations, along with the implementation of the Drug and Food Monitoring System (SisPOM) (Taufiqurrahman et al., 2023).

The government's attention and supervision take the form of strengthening the institutional capacity of the BPOM in legal terms and harmonizing the functions

of the BPOM with the Consumer Protection Law. Business operators are responsible for providing compensation as stipulated in Article 19(1) of Law No. 8 of 1999 on Consumer Protection. Furthermore, Article 19(2) of the Law states that the compensation provided by business operators may take the form of: i refund of money or replacement of goods and/or services of the same type or equivalent value, or medical treatment and/or provision of assistance by the provisions of the law. The legal protection measures taken by the Indonesian Food and Drug Monitoring Agency (BPOM) regarding the online sale of illegal drugs include monitoring the circulation of illegal drugs, tracing their origin, and identifying the manufacturers and distributors, followed by arrest and reporting the case to the central BPOM. The most severe sanction imposed is the revocation of production and distribution licenses.

Law enforcement efforts, public education, and business actors must collaborate to increase awareness and compliance with existing regulations. Overall, although existing rules are pretty comprehensive, the problem of illegal online drug sales in Indonesia still requires more attention.

Some steps that can be taken to improve legal protection for consumers include strengthening regulations to ensure that e-commerce platforms conduct strict verification of sellers, enhancing cooperation between BPOM and e-commerce platforms in blocking and cracking down on the sale of illegal drugs, and providing broader consumer education on the risks of buying drugs

online and the importance of purchasing drugs from legitimate channels.

CONCLUSION

Based on the result of the analysis above, this study has two conclusions, as follows:

1. The mechanism of illegal online sales of pharmaceutical drugs is carried out through various methods, including the use of unregistered digital platforms and the misuse of information technology. These practices often involve irresponsible sellers and can harm consumers, both in terms of health and finances. Therefore, it is essential to understand these patterns and mechanisms to develop more effective prevention strategies.
2. Legal protection for consumers against illegal online sales of pharmaceutical drugs must be strengthened through clear regulations and strict law enforcement. Consumers have the right to access accurate information and safe products. The Consumer Protection and Health Law provides a legal framework for consumers to protect themselves from unfair trade practices. Public education and collaboration between the government, platform providers, and the community are crucial for creating a safer and more trustworthy trading environment.

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