

**CRIMINAL LAW POLICY IN TACKLING
CRIMINAL ACT OF HOARDING OIL-EATING SUBSIDIES
STATUTORY GOVERNMENT
NUMBER 7 OF 2014 CONCERNING
TRADE**

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Abstract (Indonesia)

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Latar Belakang: Kebutuhan barang pokok di Indonesia saat ini sedang mengalami krisis, akibat naiknya harga barang pokok, sehingga menyulitkan masyarakat untuk memenuhi kebutuhan sehari-hari.

Tujuan: Penelitian ini bertujuan untuk mengetahui dan menganalisis perlindungan konsumen terhadap penimbunan bahan pokok minyak goreng. Serta mengetahui dan menganalisis tentang faktor-faktor penghambat dalam mengatasi penumpukan minyak goreng.

Metode: Penelitian ini termasuk dalam jenis penelitian normatif. Sehingga dapat diketahui bahwa berdasarkan supremasi hukum, tindakan penimbunan tersebut melanggar ketentuan sesuai Pasal 29 Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan.

Hasil: Konsumen harus terlindungi dari penimbunan Bahan Pokok Minyak Goreng. Penetapan sembako dilakukan berdasarkan alokasi pengeluaran rumah tangga secara nasional untuk barang-barang tersebut tinggi, sedangkan penetapan jenis barang penting dilakukan berdasarkan sifat strategis dalam pembangunan nasional (Peraturan Presiden Republik Indonesia Nomor 71 Tahun 2015 tentang Penetapan dan Penyimpanan Bahan Kebutuhan Pokok dan Barang Penting).

Kesimpulan: Berdasarkan penjelasan di atas, dapat disimpulkan bahwa berdasarkan supremasi hukum, tindakan penimbunan tersebut melanggar ketentuan sesuai Pasal 29 Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan.

Kata Kunci: tindak pidana, perdagangan, penimbunan minyak nabati

Abstract (English)

Background: *The need for basic goods in Indonesia is currently experiencing a crisis, due to the rising prices of basic goods, making it difficult for people to meet their daily needs.*

Objective: *This study aims to find out and analyze consumer protection against hoarding cooking oil staples. As well as knowing and analyzing about the inhibiting factors in overcoming the accumulation of cooking oil.*

Methods: *This research belongs to the normative type of research. So it can be known that based on the rule of law, the hoarding act violates the provisions according to Article 29 of Law Number 7 of 2014 concerning Trade.*

Result: *Consumers should be protected from the hoarding of Cooking Oil Staples. The determination of necessities is carried out based on the allocation of household expenditures nationally for these goods is high, while the determination of important types of goods is carried out based on the strategic nature of national development (Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods).*

Conclusion: *Based on the explanation above, it can be concluded that based on the rule of law, the hoarding act violates the provisions according to Article 29 of Law Number 7 of 2014 concerning Trade.*

Keywords: *criminal acts, trade, hoarding of edible oil*

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INTRODUCTION

1.1 Background to the Problem

The 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia) confirms that the State of Indonesia is a State of Law.

The law is made based on the existence of territories and communities formed within the State, therefore we as citizens who obey the regulations must be guided by the rules that have been made and agreed upon together (Indonesian Constitution 1945).

Law is also referred to as a social institution that functions as a tool to regulate society, here it is also emphasized that regulations that have been formed in the government must provide benefits to society and the State.

The need for basic goods in Indonesia is currently experiencing a crisis, due to the rising prices of basic goods, making it difficult for people to meet their daily needs.

This is something that must be overcome and find a way out. This increase also resulted in the welfare of households that previously could meet almost all their needs, but after the scarcity of basic ingredients, it began to limit them.

Hoarding cooking oil is very beneficial for certain people because by hoarding the cooking oil, it will get double the profit from consumers.

If the stock of necessities on the market runs out, inevitably consumers have to buy these needs even at an expensive price.

Implement the provisions of Article 25 paragraph (3) and Article 29 paragraph (3) of Law Number 7 of 2014 concerning Trade.

Business actors are prohibited from hoarding or storing more than the maximum amount allowed or beyond the limits of reasonableness, to obtain profits so as to cause staples to become expensive or soar.

Business actors are also prohibited from storing necessities or essential goods for a certain amount of time in times of scarcity of goods, price fluctuations, or trade traffic barriers.

Cooking oil is one of the nine staples and is consumed by almost all Indonesians both in urban and rural areas.

It can be said that cooking oil is a very strategic commodity because based on Indonesia's experience so far, shows that the scarcity of cooking oil can have a significant economic and political impact on the national economy.

In the case of hoarding cooking oil by these business actors, the harmed are consumers.

A consumer is someone who uses goods and services whose existence is found in the community for the benefit of themselves or others and not to be traded.

Consumers in buying and selling are caused by the desire and need for certain goods.

Buying and selling activities can be carried out in business places such as markets or other places where there are buying and selling transactions between sellers and buyers.

Trading activities in Indonesia over time have not been running by the provisions and trading standards regulated by Law Number 7 of 2014 concerning Trade.

This is because there are still traders who choose the cheating route to make a profit by hoarding goods that are generally basic human necessities.

However, the increasing demand for CPO in the world market, which is the raw material for cooking oil and as a *biofuel*, plays a role in subsidizing petroleum.

This makes entrepreneurs want to get as much profit as possible from selling CPO abroad, in other words, the attractiveness of the export market is a priority for entrepreneurs.

The impact of hoarding actions carried out by business actors is the scarcity of goods.

When the scarcity of goods has occurred, it will cause a surge in the price of goods, this is because demand remains but the stock of goods is empty.

There is a condition of scarcity of such goods used by traders as the right time to issue or sell goods that are stockpiled to generate greater profits.

The scarcity of oil is fatal for the community because oil is a basic necessity of the community.

People have difficulty obtaining their needs at affordable prices while sellers get double the profits.

This kind of action is detrimental to society as consumers. The scarcity of cooking oil causes consumers to get legal protection in obtaining consumer rights.

Consumer rights are regulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection.

Consumer rights are regulated in article 4 of Law Number 8 of 1999 concerning Consumer Protection as follows (Law Number 8 of 1999 concerning Consumer Protection):

1. The right to comfort, security, and safety in consuming goods and/or services;
2. The right to choose goods and/or services and obtain such goods and/or services by the exchange rate and the conditions and guarantees promised;
3. The right to true, clear, and honest information regarding the condition and guarantee of goods and/or services;
4. The right to be heard for their opinions and complaints on the goods and/or services used;
5. The right to appropriate advocacy, protection, and resolution of consumer protection disputes;
6. The right to consumer coaching and education;
7. The right to be treated or served properly and honestly and non-discriminatory;
8. The right to obtain compensation, compensation, and/or replacement, if the goods and/or services received are not by the agreement or are not as they should be;
9. The rights stipulated in the provisions of other invitees.

The right of consumers that are neglected as a result of the scarcity of cooking oil is the right to choose goods and or services and obtain these goods and or services according to the exchange rate and the conditions and guarantees promised.

Consumers are faced with a difficult choice where the availability of goods, especially cooking oil needs in the market, is limited and if they want to get it, they must buy it at a relatively more expensive price.

Cases of oil scarcity that are getting worse due to hoarding by producers and distributors cause people's rights as consumers to be neglected and cause people to have to buy oil at very expensive prices.

Article 29 of the Law of the Republic of Indonesia Number 7 of 2014 concerning Trade explains that business actors are prohibited from storing necessities and/or important goods in certain quantities and times during times of scarcity of goods, price fluctuations, and/or obstacles to goods trade traffic.

As reads Article 29 of the Law of the Republic of Indonesia Number 7 of 2014 concerning Trade (Number, 7 C.E.), namely:

1. Business Actors are prohibited from storing necessities and/or important goods in a certain amount and time when there is a shortage of goods, price fluctuations, and/or traffic obstacles to goods trade.
2. Business Actors can store necessities and/or important goods in a certain amount and time if they are used as raw materials or auxiliary materials in the production process or as inventory of goods for distribution.
3. Further provisions regarding the storage of necessities and/or essential goods are regulated by or based on a Presidential Regulation.

The threat of five years in prison up to a fine of IDR 50 billion. Criminal law expert, Aditya Wiguna Sanjaya said cooking oil hoarders can be charged with Trade Laws with the threat of five years in prison or a maximum fine of Rp 50 billion.

By Article 107 of the Law of the Republic of Indonesia Number 7 of 2014 concerning Trade, it states:

"Business actors who store necessities and/or important goods in a certain amount and time when there is a shortage of goods, price fluctuations, and/or traffic obstacles to trade in goods as referred to in Article 29 paragraph (1) shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp50,000,000,000.00 (fifty billion rupiahs)".

Cooking oil is one of the nine staples and is consumed by almost all Indonesians both in urban and rural areas.

It can be said that cooking oil is a very strategic commodity because based on Indonesia's experience so far, shows that the scarcity of cooking oil can have a significant economic and political impact on the National Economy (AMANG).

However, the increasing demand for CPO in the world market, which is the raw material for cooking oil and as a *biofuel* that plays a role in subsidizing petroleum, makes entrepreneurs want to get as much profit as possible from selling CPO abroad.

In other words, the attractiveness of the export market is a priority for entrepreneurs. As a result, the supply of domestic cooking oil is threatened to be scarce, because the scarcity of cooking oil can occur due to a shortage of one of the components of cooking oil, namely CPO (<http://lubmazresearch.wordpress.com> (accessed on August 19, 2022)).

The fluctuations in cooking oil prices that occurred made the government see the stability of the price of necessities, especially cooking oil, as an important thing for the community and the Indonesian economy as a whole, so the government issued a policy package for the stabilization of staples.

RESEARCH METHODS

The research method used in this study is a normative legal research method. Normative legal research is legal research carried out by examining library materials or secondary data (Soekanto & Mamudji, 2014).

According to Peter Mahmud Marzuki (Marzuki, 2010), normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues faced.

In this type of legal research, often the law is conceptualized as what is written in legislation or law is conceptualized as a rule or norm that is a benchmark for human behavior that is considered appropriate (Asikin, 2004).

RESULTS AND DISCUSSION

1.1 Consumer Protection Against Hoarding of Cooking Oil Staples

The development of economic globalization where the flow of goods and services no longer knows the borders of the State has created various problems, including the possibility of applying *product liability* in the doctrine of unlawful acts. Consumer protection is the responsibility of all parties, both governments, entrepreneurs, consumer organizations, and consumers themselves. Without the contribution of these four elements, according to their respective functions, it is not easy to realize consumer welfare. Consumers and business actors are like a piece of metal money with two different sides.

Consumers need goods/services as a result of the activities of business actors, but the activities of business actors are redundant if there are no consumers who buy the goods/services they produce. As a result of the ease of obtaining goods and services, a consumptive attitude began to arise from some people. In addition, people who lack awareness of their rights as a result of low levels of education are easy targets for rogue business actors. Realizing a good protection legal system, several consumer protection arrangements are needed, namely:

- a. Creating a consumer protection system that contains elements of open access and information, as well as ensuring legal certainty.
- b. Protecting the interests of consumers in particular and the interests of all business actors.
- c. Improving the quality of goods and services.
- d. Protect to consumers from deceptive and misleading business practices.

- e. Combining the implementation, development, and regulation of consumer protection with areas of protection in other areas.

Article 1 paragraph (2) of Law Number 8 of 1999 concerning Consumer Protection states that consumers are everyone who uses goods and or services available in society, both for the benefit of themselves, family, others, and other living things and not to be traded.

The term consumer comes from the word *consumer* (English-American) or *consumer/consument* (Dutch). The definition of a consumer or consumer depends on which position it is in.

According to Susanti Adi Nugroho, the definition of a consumer consists of 3 (three) meanings, namely:

- a. Consumer is any person who obtains goods and/or services that are used for a specific purpose.
- b. Intermediate consumers are any person who obtains goods and/or that are used for trading/commercial.
- c. The end consumer is any natural service person (*natuurlijke person*) who obtains goods and/or services that are used to meet the needs of his personal life, family, and/or household and not to be traded back (Nugroho, 2008).

Therefore, consumers must be protected from the hoarding of cooking oil staples. According to Article 1 number 1 of the Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods. That what is meant by necessities is goods that concern the lives of many people with a high scale of the fulfillment of needs, as well as being a supporting factor for the welfare of the community. Important goods according to Article 1 number 2 of the Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods are strategic goods that play an important role in determining the smooth running of national development. The determination of necessities is carried out based on the allocation of household expenditures nationally for these goods is high, while the determination of important types of goods is carried out based on the strategic nature of national development (Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods). According to Article 2 paragraph (6) of the Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods, it is stated that:

1. Types of necessities are:
 - a. ic necessities of agricultural products:
 - 1) Rice;
 - 2) Soybean raw materials tofu and tempeh;
 - 3) Chili; and
 - 4) Shallot.
 - b. ic necessities of industrial products:
 - 1) Sugar;
 - 2) Cooking oil; and
 - 3) Flour.
 - c. Basic Necessities of livestock and fishery products:
 - 1) Beef;
 - 2) Meat breeds of chickens;
 - 3) Purebred chicken eggs; and

- 4) Fresh fish are milkfish, bloated, and cobs / tuna / skipjack.
2. Types of essential goods consist of:
 - a. Seeds are rice, corn, and soybean seeds;
 - b. Fertilizer;
 - c. LPG gas 3 (three) kilograms;
 - d. Plywood;
 - e. Cement;
 - f. Iron steel construction; and
 - g. Mild steel.

According to the Presidential Regulation of the Republic of Indonesia, Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods, the central and local governments control the availability of necessities and/or essential goods throughout Indonesia in adequate quantities, good quality, and affordable prices. The Central Government and Local Governments control the Availability of Basic Necessities and/or Essential Goods throughout the Territory of the Unitary State of the Republic of Indonesia in adequate quantities, good quality, and affordable prices. Controlling the availability and stability of prices for Basic Necessities and Essential Goods, the Central Government and Local Governments by their authority, alone or jointly, are in charge of:

- a. Increase and protect production;
- b. Develop means of production;
- c. Develop infrastructure;
- d. fostering business actors;
- e. Develop means of trade;
- f. Optimizing inter-island trade;
- g. Conduct price monitoring and monitoring;
- h. Develop commodity information nationwide;
- i. Managing stock and logistics;
- j. Improve the smooth flow of distribution;
- k. Manage imports and exports; and
- l. Provide subsidies for freight in remote, outermost, and border areas.

According to Article 4 of the Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods is to control the availability of necessities and important goods as referred to.

The Minister of Trade sets the reference price and purchase price of the central government for part or all of Basic Necessities and Essential Goods. Presidential Regulation of the Republic of Indonesia Number 71 of 2015 concerning the Determination and Storage of Basic Necessities and Important Goods also confirms. Under certain conditions where there is a supply disruption and/or certain price conditions are above/below the price of action, which may interfere with national trade activities, the central government is obliged to guarantee the supply and stabilization of prices for necessities and essential goods. Based on the rule of law, the hoarding act violates the provisions according to Article 29 of Law Number 7 of 2014 concerning Trade (Nomor, 7 C.E.).

Business Actors are prohibited from storing necessities and/or important goods in a certain amount and time when there is a shortage of goods, price fluctuations, and/or traffic obstacles to goods trade.

Business Actors can store necessities and/or important goods for a certain amount and time if they are used as raw materials or auxiliary materials in the production process or as inventory of goods for distribution.

According to the explanation of Article 25 paragraph (1) of Law 7/2014, the necessities in question are goods that concern the lives of many people with a high scale of the fulfillment of needs and become factors supporting the welfare of the community such as rice, sugar, cooking oil, butter, beef, chicken meat, chicken eggs, milk, corn, soybeans, and iodized salt. Parties who violate the provisions of Article 29 of Law 7/2014 may be subject to or entangled in Article 107 of Law 7/2014 which states that:

"Business actors who store necessities and/or important goods in a certain amount and time when there is a shortage of goods, price fluctuations, and/or traffic obstacles to trade in goods as referred to in Article 29 paragraph (1) shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp50,000,000,000.00 (fifty billion rupiahs)."

In addition, parties who hoard goods also have the potential to violate Article 53 of Law Number 18 of 2012 concerning Food states that Food Business Actors are prohibited from hoarding or storing Staple Food beyond the maximum amount.

The maximum amount is not to exceed the stock for 3 months, based on the record of average sales per month under normal conditions, and if used as raw materials or auxiliary materials in the production process.

1.2 Inhibiting Factors in Overcoming Cooking Oil Hoarding

Launching from UNAIR NEWS, the condition of the availability of rare cooking oil in the market is still happening. Universitas Airlangga (UNAIR) economic expert, Rossanto Dwi Handoyo SE., MSi., Ph.D. said that the factor of the scarcity of cooking oil in the market is inseparable from the supply *and demand mechanism*. As one of the important commodities in Indonesia, cooking oil has a significant contribution level according to Indonesia's CPI (Consumer Price Index). This is because cooking oil is one of the staples consumed by the community every day, from all walks of life. Rossanto also added that the weight on inflation is also quite high.

The current scarcity of cooking oil is suspected to be due to an increase *in demand* and a decrease in supply. Some of the factors causing the scarcity of cooking oil, explained by Rossanto, include the following:

1. Rising Vegetable Oil Prices
2. Government Launches B30 Program
3. The Covid-19 Pandemic Is Not Over
4. Distribution and Logistics Processes.

CONCLUSION

Based on the explanation above, it can be concluded that based on the rule of law, the hoarding act violates the provisions according to Article 29 of Law Number 7 of 2014 concerning Trade (Nomor, 7 C.E.).

Business Actors are prohibited from storing necessities and/or important goods in a certain amount and time when there is a shortage of goods, price fluctuations, and/or traffic obstacles to goods trade.

In addition, the inhibiting factors in overcoming the hoarding of cooking oil include: rising vegetable oil prices, the government launching the b30 program, the Covid-19 pandemic not ended, and the distribution process and logistics.

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