



Enforcement of Criminal Law in Statement Illegal Medicine Circulation

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Abstract

This study aims to study and analyze criminal law enforcement efforts in the context of overcoming the circulation of illegal drugs in West Nusa Tenggara Province. This research is an empirical study. The results of data analysis are presented in a descriptive qualitative manner. The results showed that the efforts to tackle the circulation of illegal drugs through the penalty line were carried out through law enforcement carried out by police investigators and Civil Servant Investigators at the Indonesian Center for Drug and Food Control in Mataram. Efforts to tackle the circulation of illegal drugs through non-penal measures are carried out through preventive efforts undertaken by the Indonesian Center for Drug and Food Supervision in Mataram and the West Nusa Tenggara Provincial Health Office.

Keywords: Law Enforcement; Countermeasures; Illegal Drugs

A. Introduction

The circulation of illegal drugs that concern as it is currently not only happening in Indonesia, even at the international level also becomes a big problem that must be eradicated systematically. WHO predicts the circulation of illegal drugs in several developing countries in Africa, parts of South Asia and parts of Latin America by 20-30%, while in other Asian regions 10-20%. The mode of counterfeiting of drugs identified is by diluting the levels of the active substance, replacing the active substance content, extending the expiration date, and repackaging cheaper drugs into certain branded drugs which cost more.

Drug products that tend to be falsified by unauthorized parties are usually lifestyle, life-saving, and other drugs that are sought after by the public. Based on monitoring data from the 2013-2015 POM, the findings are dominated by erectile dysfunction, antibiotics, antipyretic-analgesic, antihypertensive, and antimalarial drugs. When viewed from the type of drug, branded drugs with relatively high prices are often falsified compared to generic types of drugs. Some drugs with trademarks that are falsified repeatedly such as Blopres, Cialis, Viagra, Ponstan, Bloppres, incidal OD, Diazepam, Anti-Tetanus Serum, and Nizoral. Meanwhile, from the results of the January-June 2016 monitoring period, the Food

and Drug Supervisory Agency has identified 17 illegal drug brands that are dominated by vaccines, Anti-Tetanus Serum, and erectile dysfunction drugs.¹

This is where the need for consistent law enforcement actions, which can provide a deterrent effect for the perpetrators of producers and dealers of illegal drugs and protection of the community as drug consumers. Illegal drug production and distribution activities including crimes against humanity.

Circulation of illegal drugs which is increasingly widespread and has violated the values and norms that live and apply in a society so that the act by the state is used as a criminal offense. Criminal law is an important tool in overcoming crime or as a drug in combating crime that is troubling and detrimental to society. Tackling these crimes can be done in a preventive and repressive manner. The form of countermeasures with the application of sanctions against criminal offenses, criminal sanctions are the best tools or facilities available, which we have to deal with threats from danger. The law must be enforced for both single offenders and corporate offenders for the circulation of illegal drugs, offenders must be punished according to regulations because this involves health and human lives. If the circulation of illegal drugs cannot be eradicated, then public trust in the domestic health service system will deteriorate further. The impact, Indonesian people will flock to seek treatment abroad.

In the effort to conduct law enforcement, there are many factors that hinder law enforcement that regulates the distribution of illegal drugs, some of which are difficult to differentiate between legal or illegal drugs unless carried out by laboratory research, distribution of illegal drugs that have penetrated everywhere and become a livelihood and there is already an organized network in the illegal drug business, and the purchasing power of our people is still low so they prefer to look for something far cheaper.

Law enforcement against the crime of Circulation of illegal drugs, has been carried out by many law enforcement officers and has received many judges' decisions. Law enforcement should be expected to be a deterrent against the increasing circulation of illegal drugs, but in reality the more intensive law enforcement is carried out, the increasing circulation of illegal drugs.

Legislation that regulates the issue of drug distribution has been compiled and enforced, however, crimes relating to the distribution of illegal drugs cannot be reduced. In recent cases, many producers and distributors, as well as illegal drug retailers, have been caught and sanctioned, but other actors such as ignoring are even more inclined to expand their area of operations.

To deal with crime requires a rational effort from the community, namely by means of criminal politics. This criminal policy is divided into two, namely a penal policy and a non-penal policy. According to Barda Nawawi Arief, quoting Marc Ancel's opinion, penal policy is both a science and an art that aims to make criminal law regulations better formulated and to provide guidance not only to the legislators, but also to the courts to implement the laws and also to the organizers or executors of court decisions.²

The existence of the Health Act, namely Law Number 36 Year 2009 concerning Health, is a legal effort by the Indonesian government towards the prevention of the crime of the distribution of illegal drugs. The establishment of a health law is expected to be able to tackle the circulation of illegal drugs by means of criminal or penal law.

Article 189 of Law Number 36 Year 2009 regarding Health, gives the authority to conduct investigations to civil servant investigators in addition to the National Police investigator. Based on

¹ Siaran Pers Badan POM Terus Perangi Peredaran *Obat illegal* Indonesia 12 Agustus 2016, Accessed December 20, 2017.

² Barda Nawawi Arief, 2014, *Bunga Rampai Kebijaksanaan Hukum Pidana*, Kencana, Jakarta, p.23-27

Presidential Decree Number 103 of 2001 concerning Position, Duties, Functions, Authority, Organizational Structure, and Work Procedures of Non-Departmental Government Institutions as amended several times, the latest by Presidential Decree Number 80 of 2017 concerning drug and food regulatory bodies, authorized Civil Servant Investigators in the case of investigating the circulation of pharmaceutical preparations including illegal drugs, is the Civil Servant Investigator of the Drug and Food Control Agency.

According to data in the Central Agency for Drug and Food Control in Mataram, the number of cases of illegal drug distribution in West Nusa Tenggara Province in the period 2016-2018 there were 69 cases and were prosecuted as many as 45 cases. Illegal drug offender, arrested, detained and charged with committing a criminal act of trafficking illegal drugs as stipulated in Article 196, Article 197 and Article 198 of Law Number 36 of 2009 concerning Health. But the sad decision of the judge has not fulfilled a sense of justice both for the perpetrators and the community.

B. Research Methods

This type of research is empirical legal research. In this case it examines the prevention of the circulation of illegal drugs in West Nusa Tenggara in the perspective of criminal law. The approaches used in this study include the statute approach, conceptual approach and case approach. Data collection techniques used in this study are document study techniques to collect secondary data and in-depth interviews to collect primary data. In this case the data analysis model used is a qualitative analysis model or often known as qualitative descriptive. In this analysis model, from the overall data collected from primary data and secondary data will then be processed and analyzed by compiling data systematically, identified, categorized or classified, linked between one data with another data, carried out interpretation to understand the meaning of the data in social situations, and then interpreted from the perspective of the researcher after understanding the overall quality of the data. The analysis process is carried out continuously since the search for data in the field and continues through the analysis phase. After a qualitative analysis, the data will be presented descriptively, namely by describing or describing clearly, systematically and completely about the results of the research of the problems proposed.

C. Results and Discussion

Implementation of Criminal Law Enforcement of Illegal Drug Distributors in West Nusa Tenggara Province

In the period of 2016 to 2018 cases of illicit drug trafficking in West Nusa Tenggara reached 69 cases. The high number of cases indicates that the supply and demand for illegal drugs is still high, so efforts are needed to overcome the problem of the distribution of Illegal Drugs in the province of West Nusa Tenggara.

One effort that can be done in order to tackle the problem of the distribution of Illegal Drugs is through efforts to enforce criminal law or the functionalization of criminal law against illegal drug dealers in West Nusa Tenggara province. The functionalization of criminal law can be interpreted as an effort to make the criminal law can function, operate or work and be realized concretely. This means that the term functionalization of criminal law can be identified with the term operationalization or concretization of criminal law which is essentially the same as the definition of criminal law enforcement.

The function of criminal law in general is to regulate and organize people's lives so that public order can be created and maintained. Human life is fulfilled by various interests and needs. Between one

need and another not only different, but sometimes conflicting. In order to meet these needs and interests, humans behave and act. So that his attitudes and actions do not harm the interests and rights of others, the law provides guidelines in the form of certain restrictions to achieve and fulfill those interests. Such a function is called the general function of criminal law.³

As a legal basis or guideline in the implementation of criminal law enforcement against the distribution of illegal drugs in the provisions of West Nusa Tenggara mentioned above is regulated in the provisions of Article 196, article 197 and article 198 of law number 36 of 2009 concerning health. Actually according to the provisions of the law the distribution of illegal drugs is a criminal act that is as a Criminal Act in the health sector. Article 386 Paragraph (1) of the Indonesian Criminal Code confirms selling fake products.

Next, the provisions of Article 8 Paragraph (1) point a of Law Number 8 of 1999 concerning Consumer Protection reads, "Business actors are prohibited from producing and / or trading goods and / or services that do not meet or do not comply with required standards and regulatory provisions. legislation".⁴

Referring to the provisions of the criminal law mentioned above, it is clear that the violation of Article 196, article 197, article 198 of law no. 36 of 2009 about Jo's health. Article 8 paragraph (1) point a of Law Number 8 of 1999 Concerning Consumer Protection Jo Article 386 Paragraph (1) of the Criminal Code in the form of distribution of illegal drugs in the territory of West Nusa Tenggara Province can be legally processed and subject to criminal sanctions in the form of imprisonment and or fine.

It should be remembered that although it has been confirmed about the existence of criminal provisions for illegal drug dealers, but it refers to the Theory of Criminal Acts, so in the context of overcoming the problem of circulation of illegal drugs it cannot be fully carried out by means / efforts that are repressive in nature, namely in the form of criminal law or the provision of criminal sanctions, but also needs to be accompanied and combined with efforts that are both preventive and persuasive considering the problem of the distribution of illegal drugs is not merely a legal problem, but has become a very complex social problem.

The provisions of positive law in Indonesia have actually confirmed these things as the researchers have described in the section on legislation relating to the control of Illegal Drug Distribution which outlines there are 2 (two) efforts that can be taken in overcoming the circulation of illegal drugs in the province of Nusa West Tenggara namely:

- a) Through the path of punishment, which is more focused on the repressive nature after violations of the law occur;
- b) Through non-criminal channels, which focuses more on the preventive nature before violations of the law occur as well as rehabilitation efforts for perpetrators / lawbreakers.

Specifically, detailed rules outlining the efforts to control and control the distribution of illegal drugs as mentioned above are stated in the Instruction of the Head of the Drug and Food Control Agency No. HK.05.1.72.12.17.6072 dated 15 December 2017 concerning Intensification of Initial Investigations and Joint Operations with the Focus of Illegal Drugs and Frequently Abused Drugs in the framework of National Action to Eradicate Illegal Drugs and Drug Abuse, which in the instructions emphasized prevention strategies, strategies surveillance and enforcement strategies. Prevention strategies include strengthening regulations; Communication, Information and Education (IEC) and community

³ Adam Chazawi, 2007, *Pelajaran Hukum Pidana bagian I*, Rajawali Pers, Jakarta, p. 15.

⁴ Article 8 Paragraph (1) point a of Law Number 8 of 1999 concerning Consumer Protection

empowerment; and improving cross-sectoral coordination. The oversight strategy includes strengthening cross-sectoral cooperation; strengthening management and database utilization; intensification of risk-based supervision; and strengthening implementation of supervision regulations. While the action strategy is focused on the stage of importation, production and distribution of drugs through three approaches, namely the mapping of cases and potential for case prone; related cross sector cooperation; and preparation of work guidelines. If the 3 (three) efforts can be carried out optimally, it will make the problem of illegal drug dealers in the territory of the Province of West Nusa Tenggara more effectively addressed and obtain maximum results in accordance with the expected local governments, law enforcement officials and the public.

In reality on the ground, the Provincial Government of West Nusa Tenggara together with relevant law enforcement agencies not only undertake repressive measures in the form of criminal law enforcement mentioned above, but also efforts have been made that are preventive in the context of overcoming the circulation of illegal drugs in the province of West Nusa Tenggara. Specifically, rehabilitation efforts cannot be implemented at all because there are still many obstacles, namely in the form of limited budget funds.

So far the above mentioned preventive measures have been carried out by the Health Office and the Center for Drug and Food Control in Mataram. Efforts to prevent the circulation of illegal drugs are carried out by the Health Service Office of West Nusa Tenggara Province through the Pharmacy, Food, Beverage and Medical Devices Section. The Pharmacy, Food, Beverage and Medical Equipment Section of the Health Department of West Nusa Tenggara Province has the task of preparing guidelines, coordinating, and developing and controlling the production, procurement, distribution and use of pharmaceuticals, narcotics and psychotropic preparations, addictive substances and hazardous substances, food, beverages health equipment and supplies, household health supplies and pharmaceutical services.

According to Baiq Fahmi Ilmiati, S.Farm, Apt,⁵ the coaching activities carried out by the Pharmacy, Food, Beverage and Medical Equipment Section of the Health Service Office of West Nusa Tenggara Province include guidance to the community by conducting counseling and seminars. In addition, the Pharmacy, Food, Beverage and Medical Devices Section of the Health Department of West Nusa Tenggara Province also actively participates in exhibitions and other activities held in the Province of West Nusa Tenggara Province Health Services such as the Sail Moyo Exhibition, West Nusa Tenggara Expo, activities in the framework of National Health Day, The Clean and Healthy Life Behavior, and the Smart Community Movement Using Drugs. During the exhibition and the activity, counseling was given on the recommended consumption of registered drugs and the dangers of using illegal drugs, either by providing direct information, distributing brochures and also providing guidance to drug distribution and service businesses according to the results of the examination of BBPOM in Mataram. applying good drug distribution methods and not applying the standards according to the laws and regulations. In addition, the West Nusa Tenggara provincial health office also conducted an MOU with the West Nusa Tenggara Provincial Education and Culture Office and the administrators of the West Nusa Tenggara Indonesian Pharmacist Association (IAI) organizing a "Pharmacist Goes To School" where the activity is in the form of providing counseling to students in junior and senior high schools throughout West Nusa Tenggara about the dangers of drug abuse.

While the preventive efforts undertaken by the Center for Drug and Food Supervision in Mataram by installing billboards, exhibitions, distributing brochures, counseling to the public both directly and through electronic media, social media and information technology and fostering dealers and abusers themselves. The installation of billboards was carried out in several corners identified as areas prone to distribution and misuse of illegal drugs such as in Mataram City in Gomong, Bima City on the Bima city

⁵ Interview with Baiq Fahmi Ilmiati, S.Farm, Apt, head of the pharmacist section of the West Nusa Tenggara Province health office, January 10, 2019

protocol road, which contained an appeal not to abuse drugs and legal sanctions if they were distributing illegal drugs. The brochures were distributed at the exhibition and CFD (car free day) every Sunday in Udayana. The contents were about the dangers of illegal drugs and an appeal to the public not to consume illegal drugs. Counseling and outreach efforts in collaboration with participants from community leaders, religious leaders, Family Welfare Empowerment cadres, integrated service post cadres, youth clubs, business actors, and the general public. Counseling and socialization provides motivation and appeals to the public to become smart consumers and not to buy drugs arbitrarily and not to do illegal acts, distribute illegal drugs and abuse drugs.

Provision of information to the public is also done through: Consumer Complaints Service Unit of the Center for Drug and Food Control Mataram, print media, electronics, collaboration with cross-sectoral as resource persons, receive visits from Early Childhood Education/Primary Schools/Madrasah Aliyah/Higher Education, and actively disseminating information through social media Facebook and Instagram The National Agency of Drug and Food Control West Nusa Tenggara.

The Central Bureau of Drug and Food Control in Mataram also checks distribution facilities and services (pharmacies, hospitals, public health centers) and is in charge of taking samples for testing. Through this activity it is expected that distributors and retailers of official drugs will obey the laws and regulations and there will be no leakage of drugs to illegal facilities.

All of the preventive efforts that have been carried out by the West Nusa Tenggara Provincial Government are the main objective is to prevent the community from carrying out activities to distribute and or abuse illegal drugs because these activities are prohibited by law and can damage the next generation.

Furthermore, speaking of criminal law enforcement in the context of overcoming the circulation of illegal drugs in the province of West Nusa Tenggara, this actually requires synergistic efforts from the parties concerned. There are several parties or agencies that will be involved in its implementation, including: Investigation of Civil Servants at the National Agency of Drug and Food Control in Mataram, West Nusa Tenggara Regional Police, West Nusa Tenggara Resort Police, West Nusa Tenggara Prosecutors' Office, West Nusa Tenggara High Prosecutor's Office, District Prosecutors in West Nusa Tenggara, District Courts in West Nusa Tenggara.

In the context of enforcing criminal law on the provisions of Law Number 36 of 2009 concerning health, Law Number 8 of 1999 concerning consumer protection and the Criminal Code, this is the authority of the Republic of Indonesia National Police and investigators of the Civil Service Office of the National Drug Supervisory Agency and Food in Mataram. Referring to Law Number 2 of 2002 concerning the Republic of Indonesia National Police, the main tasks of the Republic of Indonesia National Police are to maintain security, uphold the law, provide protection, protection and public services. While Article 189 of Law Number 36 Year 2009 concerning Health also gives the authority to conduct investigations to civil servant investigators in addition to police investigators. Based on Presidential Decree No. 103/2001 concerning Position, Duties, Functions, Authority, Organizational Structure, and Work Procedures of Non-Departmental Government Institutions as amended several times, the latest by Presidential Regulation No. 80 of 2017, that The National Agency of Drug and Food Control has the authority conduct intelligence and investigation in the field of drugs and food in accordance with statutory provisions which means that investigators of the civil service of the National Agency of Drug and Food Control are authorized in the case of investigating the circulation of illegal drugs.

Violations of criminal provisions by illegal drug dealers will eventually lead to legal proceedings in the District Court with criminal sanctions that can be given in the form of imprisonment or fines as a form of criminal liability.

So that criminal law enforcement can run properly and effectively, of course, the criminal rules for the illegal drug dealers must be applied and work well in the life of the community in any violations that occur against the provisions of Article 196, article 197, article 198 of Law number 36 of 2009 concerning the health of Jo Article 8 paragraph (1) point a of Law Number 8 of 1999 concerning Consumer Protection Jo Article 386 Paragraph (1) of the Criminal Code. As a consequence of the state of Indonesia as a state of law, every activity of promoting illegal drugs in Indonesia, especially West Nusa Tenggara, should be acted firmly indiscriminately and should be subject to criminal sanctions based on the aforementioned criminal law rules.

Examined and analyzed based on Legal Work Theory put forward by Robert B. Siedman, the criminal law enforcement process in the context of overcoming the circulation of illegal drugs in the province of West Nusa Tenggara will be influenced by several elements or aspects related to each other that affect the workings of the law so that criminal law enforcement in the community can run well. Some of these elements or aspects include: Lawmaking Institutions, Sanction Implanting Institutions, Role Occupants and Societal Personal Forces, Legal Culture and Feedback elements from the work process ongoing law.⁶

Further elaborated, what is meant by the elements of the Lawmaking Institution here is the Legislative and Executive parties which in this case are the House of Representatives of the Republic of Indonesia with the Government of the Republic of Indonesia who has a role in making laws or criminal law rules, namely Law Number 36 years 2009 regarding health, Law No. 8 of 1999 concerning Consumer Protection and the Criminal Code including government regulations and other implementing regulations. Sanction Institution Agencies are law enforcement agencies related to criminal law enforcement against the distribution of illegal drugs, including Civil Servant Investigators, Central Bureau of Drug and Food Control in Mataram, Regional Police and Police, Sector Police throughout West Nusa Tenggara, West Nusa Tenggara Prosecutor's Office and West Nusa Tenggara Prosecutor's Office West Nusa Tenggara State and West Nusa Tenggara District Courts. The role holder is the people of West Nusa Tenggara Province including the Illegal Drug Dealers themselves, each of whom has rights and obligations as citizens. Next, Personal Social Strength and Legal Culture are social factors in the life of the people of West Nusa Tenggara Province which can be in the form of economic, political, and legal culture factors.

The elements mentioned above have their respective functions and roles which are also accompanied by a feedback process from one element to another that will affect the operation of criminal law in people's lives. If related to the description of the legal work process submitted by Robert B. Seidman, the implementation of criminal law enforcement against Illegal Drug dealers in West Nusa Tenggara Province in the form of application or enforcement of the provisions of Article 196, article 197, article 198 of Law no. 36 of 2009 concerning Jo's health. Article 8 paragraph (1) point a of Law Number 8 of 1999 Concerning Consumer Protection Jo Article 386 Paragraph (1) of the Criminal Code will indicate the following conditions:

1. The provisions of Article Article 196, Article 197, Article 198 of Law Number 36 of 2009 concerning Health. Jo Article 8 paragraph (1) point a of Law Number 8 of 1999 Concerning Consumer Protection Jo Article 386 Paragraph (1) of the Indonesian Criminal Code has regulated, affirmed and notified the public about the prohibition along with criminal sanctions for producing and or distributing illegal drugs. This means, any violation of the provisions in the legislation above will be prosecuted, legally processed and subject to criminal sanctions in the form of imprisonment or fines;

2. In the context of the State of Indonesia as a rule of law, every member of the community, especially those in the Province of West Nusa Tenggara, is considered to have known about the

⁶ Siedman, Robert B. 1978. *The State, Law and Development*. ST. Martin's Press. New York. p. 178

prohibition or criminal sanction for the distribution of illegal drugs above. According to Robert B. Seidman each member of the community as a role holder is determined by his behavior patterns by the role expected thereof both by legal norms and by forces outside the law in the form of social and personal forces. Every member of the community in the province of West Nusa Tenggara as the role holder is certainly expected to act to comply with / comply with the provisions in Law no. 36 of 2009 concerning health, Law No. 8 of 1999 concerning Consumer Protection and the Criminal Code. If it turns out there are members of the community who are still violating, then it is greatly influenced by social and personal forces working against the stakeholders. In response to these conditions, so that later on the criminal law will work or in other words the enforcement of criminal law can run well, this is where it is expected that the activities of the sanctioning institution can work by enforcing the existing legal rules properly;

3. Every violation that occurs against the provisions in Law number 36 of 2009 concerning health, Law Number 8 of 1999 concerning Consumer Protection and the Criminal Code, the law enforcement apparatus as an element of a sanctioning institution is expected to act to enforce criminal rules for circulating activities Illegal drugs are firm and consistent with taking action, processing legally, including applying sanctions in the form of criminal sanctions for each violator. In carrying out this role, elements of the application of sanctions are also required to be observant and responsive in receiving any feedback or input in the field from the activities carried out by the stakeholders so that the ways or efforts of law enforcement carried out to overcome problems in the community can run well and effective;

4. From the running of the entire criminal law enforcement process against the distribution of illegal drugs mentioned above, the lawmaking element is expected to carry out its role to supervise and evaluate the application or implementation of criminal provisions in the community. From this process, later it can also provide feedback or input or evaluation material for the makers of the Law regarding the provisions of criminal law that already exist for illegal drug dealers. Illegal drugs in West Nusa Tenggara Province.

Judging from the above description, it can be seen that the important and ideal points in the implementation of criminal law enforcement against the circulation of illegal drugs is that every element of the operation of the law can carry out its functions properly. Every member of the community should comply with the provisions of criminal law regarding the prohibition of illegal drug distribution activities and if there is then a violation of the existing criminal law provisions both against the provisions of Law Number 36 of 2009 concerning health, Law Number 8 of 1999 concerning Consumer Protection and Criminal Code, this can occur because of the influence of various factors in the form of social, personal and legal culture.

Related to the implementation or implementation of criminal law enforcement above, it turns out that during the past 3 years PPNS and the police apparatus namely the West Nusa Tenggara Regional Police have done a lot of criminal law enforcement against Illegal Drug dealers, this is proven by 45 cases of drug trafficking. illegal handled. Thus, it can be seen that there are illegal drug dealers operating in regencies / cities that are processed legally and are subject to criminal sanctions based on the provisions of article 197 and or article 196 of Law number 36 of 2009 concerning health.

Based on the descriptions above, it can be seen that the implementation of criminal law enforcement against the provisions of article 197 and or article 196 of Law Number 36 of 2009 concerning health has been running, but certainly not yet optimal. This is because of the complexity of the problem of law enforcement against the crime of the circulation of illegal drugs.

Next, in the context of enforcing criminal law on the provisions of Article 197 and / or Article 196 of Law Number 36 of 2009 concerning health, based on the results of the study, it can be known about the implementation or implementation of law enforcement by the Civil Servant Investigator of the

Central Drug and Food Supervisory Agency in Mataram in collaboration with the West Nusa Tenggara Regional Civil Servant Police Investigator Coordinator.

According to Basuki Murdi Hartono, SH., There are several stages or processes in the implementation of criminal law enforcement against illegal drug dealers, which consist of:

- a) Operations / raids, which are carried out through routine operations and at certain times based on community reports and integrated operations on the instructions of the head of the National Agency of Drug and Food Control;
- b) Initial Case Title. Illegal drug dealers who are caught in raids / operations will be selected (examining and collecting other Evidence) to determine whether the elements of the article are fulfilled or not, and as a basis for determining further actions. Follow up options that can be done are that they are scouted, or processed and brought to court for trial.
- c) Filing
- d) Delegation of files to the Public Prosecutor
- e) File investigated by the prosecutor, if it is complete p21 will be published but if it is incomplete instructions will be issued (P18 / p19) to PPNS to complete the file
- f) Stage 2 delegation (surrender of the suspect and evidence) to the Public Prosecutor.

Basuki Murdi Hartono S.H, explained that raids against illegal drug dealers are routinely carried out in the form of joint regional operations, national joint operations and eradication of illegal drugs. the raids were focused on areas that were vulnerable to the circulation of illegal drugs. The implementation was carried out by a joint team not only from the elements of the Civil Servant Investigator of the Indonesian Center for Drug and Food Control, but also involved the Police⁷.

The next stage or process after the raid is the initial case title, if in this case title it is agreed that the elements of the article are fulfilled, especially for cases of illegal drug distribution, the suspect will be detained. Almost all suspects of illegal drug dealers are arrested, this is certainly taking into account the fulfillment of subjective and objective conditions to detain someone in accordance with the Criminal Procedure Code. However, if the elements of the article are not fulfilled and/or the evidence obtained is little and it is known that the dealer is only the first time, the Center for Drug and Food Control in Mataram can take an intensive persuasive approach to the dealer.

Usually the officers will provide understanding, understanding and invite dealers to abandon the activity of distributing illegal drugs and extract information related to the source of the acquisition of illegal drugs, and carry out training programs.

The information that the researcher got was the imposition of criminal sanctions against violators of the provisions of Article 196 and / or Article 197 of Law Number 36 of 2009 concerning health which cannot yet be fully implemented. This is evident from the facts on the ground that show that during the past 3 years (the period 2015-2018) in fact there were a number of cases that were not proceeded to due process because the article was not fulfilled especially the distribution element where the circulation element for some officers must be available sale and purchase transactions, while arrests are made when the illegal drug is taken by the owner of the expedition or while at home or storage. This is certainly

⁷ Interview with Basuki Murdi Hartono, SH, BBPOM Civil Servant Investigator, January 13, 2019.

debatable because according to researchers the element of circulation does not have to be the element of buying and selling, but changing hands is also circulating and that a criminal event cannot be separated from its intention to do, this is in line with the opinion of DIATIK JATMIKO, SH,⁸ MH. there must be a sale and purchase transaction at the time of the arrest, but the event must be seen in full. Respondents analogize with someone who just came out of his house carrying his banana merchandise by shoulders, circulatory events can be seen from his intention to sell these bananas, as well as by distributing illegal drugs, the perpetrators buy in large quantities, the purpose is to be sold and not possible to be consumed alone.

The existence of illegal drug dealers that have been delegated and tried in this District Court means that there are dealers that are given criminal sanctions based on the provisions of Article 196 and or Article 197 of Law number 36 of 2009 concerning health. Based on these conditions, it can be seen that criminal law enforcement against illegal drug distribution activities as a violation of Article 196 and 197 of Law Number 36 of 2009 concerning health has not been carried out optimally because the relevant law enforcement officers carry out criminal law enforcement efforts in the form of raids, but not all are accompanied by follow-up efforts in the form of delegations to be tried in the District Court so that they can then be subject to criminal sanctions in the form of prison or fines.

Data on Development of Number of Cases of Criminal Drugs of Illegal Drugs at District Courts in West Nusa Tenggara for the Period of 2016-2018

No	Regency / City	Case Article 196 and or Article 197 of law number 36 of 2009 concerning health		
		2016	2017	2018
1.	Mataram City	1	4	3
2.	West Lombok	0	1	0
3.	North Lombok	0	0	0
4.	central Lombok	1	4	0
5.	East Lombok	0	0	0
6.	Sumbawa	0	0	0
7.	West Sumbawa	0	0	0
8.	Dompu	0	4	2
9.	Bima	2	4	1
10.	Bima City	5	9	4
SUB Total		9	26	10
TOTAL		45		

Source: Data taken from SIPP data and data collection from BBPOM Mataram, West Nusa Tenggara Regional Police and West Nusa Tenggara Regional Police (data processed by the author)

⁸ Interview with Didik Jatmiko, SH, MH Judge of the Mataram District Court, 11 January 2019

The data above shows that there are cases of illegal drug trafficking handed over by the Civil Servant Investigator and police officers both the police and police to the public prosecutor to then be tried in a criminal act at the District Court, but in quantity the amount is still far from handling the criminal case drugs which apparently quite intensively carried out efforts to enforce criminal law is to delegate and try it in the District Court. This can be seen from the data held by the Central Agency for Drug and Food Control in Mataram which shows the number of drug crime cases in 2016 (330 cases), 2017 (440 cases) and in 2018 reached 300.

Seeing the handling mentioned above, it can actually be explained that the efforts to deal with the circulation of legal drugs in the more comprehensive West Nusa Tenggara Province are by combining and implementing them thoroughly in 3 ways / approaches, namely preventive, repressive and rehabilitation. In the event of a violation of the provisions of Law Number 36 of 2009 concerning health, Law Number 8 of 1999 Concerning Consumer Protection and the Criminal Code, actions that should be taken place more emphasis on repressive efforts in the form of criminal law enforcement with stages of conducting raids, titles cases, as well as delegations and hearings, but in carrying out these efforts, they must remain selective and humane without violence.

Illegal drug dealer proven to violate Law No. 36 of 2009 concerning health, Law No. 8 of 1999 concerning Consumer Protection and the Criminal Code that is carrying out illegal drug distribution will certainly be subject to criminal sanctions in the form of prison or fines by the District Court. The imposition of criminal sanctions is later expected to give a deterrent effect to the dealer where the purpose of giving sanctions as above is in accordance with criminal objectives as outlined in Relative Theory or Objective Theory in Criminal Theory, namely criminal imprisonment has certain useful purposes.

The results of criminal law enforcement that have been carried out so far can provide feedback and be an evaluation material for law enforcement officials as implementing institutions for sanctions to improve their performance in the law enforcement process. For legislative institutions as legislators, the working process of the aforementioned criminal law clearly can be used as a basis for evaluating existing criminal law rules and in the future formulating better criminal law rules in tackling the circulation of illegal drugs including also being used as input material for drafting legal rules more specifically and comprehensively about tackling the circulation of illegal drugs in West Nusa Tenggara Province.

D. Conclusions

Efforts to tackle the distribution of illegal drugs through the law carried out through law enforcement carried out by police investigators and Civil Servant Investigators of the Center for Drug and Food Control in Mataram, data shows that in the period 2016-2018 there were 69 cases of illegal drug distribution in West Nusa Tenggara where 45 cases of which proceed to the stage of investigation, prosecution and trial in court. And the efforts to deal with the distribution of illegal drugs through non-penal measures are carried out through preventive efforts undertaken by the Center for Drug and Food Control in Mataram and the West Nusa Tenggara Provincial Health Office such as conducting Communication, Information and education to the community related to Illegal Drugs, community empowerment and supervision of drug production, distribution and service facilities.

It is necessary to improve the performance, coordination and synergy of the relevant law enforcement agencies, namely all stakeholders of the law enforcement agencies, both from the West Nusa Tenggara Province Drug and Food Control Office, the police, prosecutors and the West Nusa Tenggara community towards illegal drug dealers in Nusa Tenggara Province. The West can be carried out more decisively and consistently, while efforts are also being made for prevention.

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