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Criminal Law Enforcement Against Illegal Cosmetic Products: A Normative Juridical Study

Recha Redian^{1*}, Bangun Patrianto²

¹recharedian9191@gmail.com, ²bangunpatrianto@ubhara.ac.id

Universitas Bhayangkara Surabaya

*Corresponding Author: Recha Redian

Email: recharedian9191@gmail.com

ABSTRACT

The widespread circulation of illegal cosmetic products poses serious threats to consumer health and safety, particularly those containing hazardous substances such as mercury and hydroquinone distributed without valid regulatory authorization. This study examines criminal law enforcement against perpetrators of illegal cosmetic distribution and the legal protection afforded to consumers within the jurisdiction of the East Java Regional Police (Polda Jawa Timur). Employing a normative juridical method with a statute approach, this study analyzes applicable provisions under Law No. 36 of 2009 on Health and Law No. 8 of 1999 on Consumer Protection, using the counterfeiting of New KLT cosmetic products as its primary case reference. The findings reveal that while the existing statutory framework provides a sufficient normative basis for criminal prosecution, enforcement effectiveness is constrained by inadequate inter-agency coordination between the Regional Police and BPOM, the proliferation of unmonitored online distribution channels, and the absence of accessible victim compensation mechanisms. This study extends prior research by demonstrating that administrative supervision and criminal law enforcement function as complementary rather than substitutable instruments, and that consistent police-led prosecution is indispensable to closing the deterrence gap that regulatory reform alone cannot address. Stricter sanction implementation and strengthened institutional coordination are recommended to optimize consumer protection outcomes.

Keywords: *Consumer Protection, Criminal Law Enforcement, Distribution Permit, Illegal Cosmetics, Normative Juridical*

INTRODUCTION

Human behavior is shaped substantially by the surrounding social environment, which forms habits, values, and patterns of interaction among individuals within a given community.¹ Social conditions, cultural norms, and prevailing economic structures all exert considerable influence on the choices that individuals make in their daily lives. At the same time, individuals retain an active capacity to influence and transform the environment in which they live, particularly across social and economic domains.² In modern society, personal decisions are frequently driven by self-interest, and in certain circumstances such decisions may contravene established legal norms and generate adverse consequences for the public at large.³

One sector that has expanded at a particularly rapid pace over the past decade is the cosmetics industry. The development of beauty products has proceeded in tandem with broader trends of modernization, digital commerce, and evolving consumer lifestyles. Cosmetics are no longer confined to female consumers; they have been widely adopted by men and have increasingly become a professional necessity for maintaining personal appearance across numerous occupational fields.⁴ The intensifying competition within this industry has, in turn, generated strong commercial pressure, which in certain cases has given rise to unlawful business practices by actors seeking to generate rapid profits through illegitimate means.⁵

Cosmetic products serve a broad range of functions, from enhancing physical appearance to protecting the skin and body against environmental harm. The consistently high consumer demand for such products creates substantial economic opportunity and drives continuous market growth.⁶ However, this same demand simultaneously provides an incentive for criminal conduct, most notably in the form of product counterfeiting and unauthorized distribution. Counterfeit cosmetics are frequently manufactured using hazardous substances such as mercury and hydroquinone, and are offered to consumers at artificially low prices, thereby

¹ Bernard Guerin, "The Forces That Shape Human Behavior: Combining the Behavior Analysis Approach with Social Science Knowledge for a More Exhaustive Framework to Analyze and Change Human Behavior," *The Psychological Record* 75, no. 3 (September 29, 2025): 355–371, <https://link.springer.com/10.1007/s40732-025-00654-z>.

² Syed Sibghatullah Shah and Zahid Asghar, "Dynamics of Social Influence on Consumption Choices: A Social Network Representation," *Heliyon* 9, no. 6 (June 2023): e17146, <https://linkinghub.elsevier.com/retrieve/pii/S2405844023043542>.

³ Soerjono Soekanto and Budi Sulistyowati, *Sosiologi Suatu Pengantar*, Jakarta: PT. RajaGrafindo Persada (Rajawali Pers, 2017).

⁴ Derek Hird, "Balancing Refinement and Manliness: A Beauty Formula for Men's Social and Professional Success," *NAN NÜ* 26, no. 1 (May 28, 2024): 114–143, https://brill.com/view/journals/nanu/26/1/article-p114_5.xml.

⁵ Jalaluddin Rakhmat, *Psikologi Komunikasi, Simbiosis Rekatama Media* (Bandung, 2021).

⁶ Xueqing Liu, "The Role of Consumer Behavior in Shaping Market Demand and Economic Trends," *International Journal of Education and Humanities* 15, no. 2 (July 27, 2024): 10–16, <https://drpress.org/ojs/index.php/ijeh/article/view/24202>.

posing serious health risks to those who are insufficiently informed or cautious in selecting products.⁷⁸

Counterfeiting constitutes a form of criminal activity that inherently involves deception, whereby the perpetrator presents an imitation product as though it were authentic, exploiting consumer trust for financial gain. In the context of the cosmetics industry, such falsification may encompass the product's formulation, outer packaging, labeling, and registered trademarks. These acts constitute clear violations of law and are capable of giving rise to both material losses, such as financial harm, and non-material harm, including risks to the health and safety of consumers. The deliberate nature of cosmetic counterfeiting distinguishes it from ordinary commercial negligence and warrants treatment as a criminal offense under applicable statutory provisions.⁹

Oversight of the circulation of illegal cosmetic products in Indonesia falls principally within the institutional mandate of the National Agency of Drug and Food Control (Badan Pengawas Obat dan Makanan, hereinafter BPOM).¹⁰ The primary objective of such regulatory oversight is to ensure that industry actors adhere to applicable standards governing product formulation, production processes, and distribution channels. Despite ongoing enforcement efforts, illegal cosmetics continue to circulate widely, particularly through online retail platforms that are more difficult to monitor through conventional supervisory mechanisms. The persistence of this phenomenon underscores the need for more rigorous regulatory control, coordinated inter-agency enforcement, and more assertive criminal sanctions to deter prospective violators.

A concrete illustration of these legal violations is the case involving the counterfeiting of New KLT cosmetic products by the suspect identified as BS, which came to the attention of law enforcement authorities in Surabaya, East Java. BS produced counterfeit cosmetics that closely imitated the KLT brand in terms of appearance and packaging, and distributed these products through online platforms at prices substantially lower than those of the genuine merchandise.¹¹ Investigation

⁷ Juilia Harman et al., "Analyzing American Brand and Chinese Counterfeit Eyeshadows for Heavy Metals," *Proceedings of the West Virginia Academy of Science* 92, no. 1 (April 29, 2020), <https://pwvas.org/index.php/pwvas/article/view/623>.

⁸ Abdullah M. Alnuqaydan, "The Dark Side of Beauty: An in-Depth Analysis of the Health Hazards and Toxicological Impact of Synthetic Cosmetics and Personal Care Products," *Frontiers in Public Health* 12 (August 26, 2024), <https://www.frontiersin.org/articles/10.3389/fpubh.2024.1439027/full>.

⁹ Firyal Arribah Syafiqoh and Amad Sudiro, "Perlindungan Hukum Terhadap Konsumen Dari Produk Kosmetik Yang Ilegal," *Syntax Literate ; Jurnal Ilmiah Indonesia* 8, no. 12 (January 4, 2024): 6679–6689, <https://www.jurnal.syntaxliterate.co.id/index.php/syntax-literate/article/view/14757>.

¹⁰ Novi Christi and Gatot P. Soemartono, "The Role of the Drug and Food Control Agency (BPOM) in Addressing the Distribution of Illegal Cosmetics," *JHKK* 6, no. 1 (June 25, 2024): 9–24, <https://journal.stihbiak.ac.id/index.php/kyadiren/article/view/203>.

¹¹ Desiana Ahmad and Mutia Cherawaty Thalib, "Tanggung Jawab Hukum Pelaku Usaha Terhadap Peredaran Kosmetik Yang Tidak Memiliki Izin Edar," *JURNAL LEGALITAS* 12, no. 2 (2019): 104–113, accessed February 18, 2026, <https://ejurnal.ung.ac.id/index.php/JL/article/view/5797/1924>.

revealed that the suspect assembled the counterfeit products using wholly unsuitable raw materials, including bar soap, alcohol, food coloring, and distilled water, without any quality control or professional formulation process. Despite possessing no specialized knowledge in cosmetic science or pharmaceutical manufacturing, BS reportedly generated monthly revenues amounting to hundreds of millions of rupiah from these illegal activities.

As a consequence of the foregoing acts, the suspect was charged under several statutory provisions, namely Article 106 of Law No. 7 of 2014 on Trade, Articles 196 and/or 197 of Law No. 36 of 2009 on Health, and Article 62 of Law No. 8 of 1999 on Consumer Protection, with the applicable penalties collectively reaching up to ten years' imprisonment. The multiplicity of charges reflects the intersecting legal interests at stake, encompassing public health protection, commercial integrity, and consumer rights simultaneously.¹² For the purposes of the present study, the primary analytical focus is directed toward violations of Articles 196 and 197 of Law No. 36 of 2009 on Health, as these provisions constitute the most directly relevant criminal law basis for addressing the unauthorized production and distribution of cosmetic products containing dangerous substances.¹³

Several prior studies have examined the intersection of consumer protection law and criminal enforcement in the context of illegal cosmetics distribution in Indonesia. Tungga, Kadja, and Amalo analyzed a district court decision involving illegal cosmetics and concluded that criminal sanctions under the Consumer Protection Law remain insufficiently deterrent, as they fail to adequately address the underlying economic motivations of perpetrators.¹⁴ Sebayang et al similarly reviewed two court decisions concerning online sales of illegal cosmetics and found that while prosecution under Law No. 17 of 2023 on Health is legally supportable, mechanisms for providing compensatory relief to affected consumers remain structurally underdeveloped.¹⁵ From a regulatory standpoint, research published in

¹² Andi Nugraha and Dian Adriawan Dg Tawang, "PERBUATAN PIDANA TERHADAP PENGEDARAN KOSMETIKA YANG TIDAK MEMILIKI IZIN EDAR DAN TIDAK MEMILIKI KEAHLIAN DALAM PRAKTIK KEFARMASIAN MENURUT UNDANG-UNDANG NOMOR 36 TAHUN 2009 TENTANG KESEHATAN," *Jurnal Hukum Adigama* 2, no. 1 (July 22, 2019), accessed February 18, 2026, https://www.researchgate.net/publication/341936646_PERBUATAN_PIDANA_TERHADAP_PENGEDARAN_KOSMETIKA_YANG_TIDAK_MEMILIKI_IZIN_EDAR_DAN_TIDAK_MEMILIKI_KEAHLIAN_DALAM_PRAKTIK_KEFARMASIAN_MENURUT_UNDANG-UNDANG_NOMOR_36_TAHUN_2009_TENTANG_KESEHATAN.

¹³ Pemerintahan Republik Indonesia, *UU No. 36 Tahun 2009 Tentang Kesehatan, Sekretariat Negara*, 2009.

¹⁴ Deski Bertolens Tungga, Thelma S.M Kadja, and Amalo Heryanto, "Perlindungan Konsumen Dari Aspek Hukum Pidana Terhadap Peredaran Kosmetik Ilegal," *Konstitusi: Jurnal Hukum, Administrasi Publik, dan Ilmu Komunikasi* 2, no. 1 (December 13, 2024): 136–145, <https://ejournal.appihi.or.id/index.php/Konstitusi/article/view/398>.

¹⁵ Rina Br. Sebayang et al., "Application Of The Law For The Criminal Act Of Sale Of Illegal Cosmetic Products Sold Online (Study Of Decisions No.82/Pid.Sus/2024/Pn Smn And No.123/Pid.Sus/2024/Pn Bir)" (January 3, 2026): 107–117, accessed February 18, 2026, <https://www.atlantis-press.com/proceedings/ifple-25/126021097>.

Eruditio documented a 165 percent increase in products circulating without valid distribution permits between 2021 and 2022, with only partial reductions in subsequent years, indicating that enforcement intensity is inconsistent and long-term deterrence has not been achieved.¹⁶ A further study on the administrative law dimension found that the complexity of illegal cosmetics distribution is compounded when perpetrators hold professional status, and that coordination mechanisms between BPOM and relevant disciplinary bodies remain institutionally fragmented.¹⁷

Notwithstanding these contributions, several critical dimensions remain inadequately explored in the existing literature. Most prior research has either concentrated on specific e-commerce platforms or analyzed isolated court decisions without grounding the inquiry within a defined law enforcement jurisdiction, and there is limited scholarly attention to the distinct operational role of the Regional Police as a criminal enforcement institution separate from BPOM's administrative functions. The present study addresses these gaps by examining how criminal law provisions are applied specifically within the jurisdiction of the East Java Regional Police (Polda Jawa Timur), with the New KLT counterfeiting case as its primary empirical reference. The central research question guiding this inquiry is: how is criminal law enforced against perpetrators of illegal cosmetic product distribution, and what form of legal protection is afforded to consumers, within the jurisdiction of the East Java Regional Police? The objective of this study is to analyze the application of Articles 196 and 197 of Law No. 36 of 2009 on Health and Article 62 of Law No. 8 of 1999 on Consumer Protection to the case under examination, and to identify structural weaknesses in the current enforcement framework. The novelty of this research lies in its jurisdiction-specific analysis of police-led criminal enforcement, its integration of health law and consumer protection law within a unified normative framework, and its identification of deterrence gaps that prior regulatory and case-specific studies have not yet addressed comprehensively.

LITERATURE REVIEW

Justice, Legal Protection, and the Rule of Law

Justice constitutes a foundational value in every legal system and reflects the principle that every individual is entitled to equal treatment, free from

¹⁶ Mohamad Kashuri, Taruna Ikrar, and Gunawan Indrayanto, "Analysis of Trends in Cosmetics Supervision Cases in Indonesia in 2021-2024," *Eruditio : Indonesia Journal of Food and Drug Safety* 5, no. 2 (September 30, 2025): 128–139, <https://eruditio.pom.go.id/index.php/home/article/view/235>.

¹⁷ Kiki Firmantoro and Suvinah Suvinah, "Kosmetik Ilegal, Otoritas Pengawasan, Dan Profesi Medis: Kajian Hukum Administrasi Di Indonesia," *HUMANIORUM* 3, no. 3 (July 8, 2025): 125–135, <https://journal.elena.co.id/index.php/humaniorum/article/view/133>.

discrimination and arbitrariness.¹⁸ In its most basic sense, justice requires that legal decisions be grounded in objective norms and collectively accepted social standards rather than in the personal interests of those wielding authority. Because justice is inherently contextual, its precise meaning may vary across different social, cultural, and temporal settings, yet its core demand — that like cases be treated alike and that wrongs be meaningfully remedied — remains constant across legal traditions.¹² John Rawls articulated this principle systematically through his theory of "Justice as Fairness," arguing that a just society must be structured around the equal distribution of basic rights and the maximization of opportunities for the least advantaged members of the community.¹⁹ In the domain of criminal law, this conception of justice implies that legal accountability must extend not only to the punishment of offenders but equally to the restoration of rights for those who have suffered harm, including consumers who have been deceived by unlawful commercial actors.

The concept of legal protection operates as the practical instrument through which the abstract value of justice is realized in the lives of individuals. Legal protection is conventionally divided into two forms: preventive protection, which aims to forestall violations before they occur through regulatory standards and licensing requirements, and repressive protection, which provides mechanisms for resolving disputes and remedying harm after a violation has taken place.²⁰ Satjipto Rahardjo advanced a humanistic understanding of legal protection, contending that law must always place the human being at the center of its concern, and that law enforcement actors are therefore obligated to treat victims not merely as passive objects of procedure but as subjects whose physical, psychological, and material rights must be actively restored.²¹ This perspective is particularly relevant to cases of illegal cosmetics distribution, where consumers who suffer health harm as a result of using dangerous products are often unable to obtain adequate compensation through existing legal mechanisms.²² The principle of the rule of law (*rechtsstaat*) provides the constitutional backdrop against which both justice and legal protection operate. As affirmed in Article 1(3) of the 1945 Constitution of the Republic of Indonesia, the state is founded upon the supremacy of law, meaning that both private citizens and public officials alike are bound by and accountable to legal norms. Friedrich Julius Stahl identified three essential characteristics of a law-based state: the protection of fundamental human rights, the separation of

¹⁸ Elizabeth F. Moulds, "Chivalry and Paternalism: Disparities of Treatment in the Criminal Justice System," *Western Political Quarterly* 31, no. 3 (September 1, 1978): 416–430, <https://journals.sagepub.com/doi/10.1177/106591297803100311>.

¹⁹ John Rawls, *A Theory of Justice* (Oxford University Press, 1999).

²⁰ Pemerintahan Republik Indonesia, *UU No. 31 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 13 Tahun 2006 Tentang Perlindungan Saksi Dan Korban*, Sekretariat Negara, 2014.

²¹ Satjipto Rahardjo, *Hukum Dan Masyarakat* (Angkasa, 1980).

²² Lesnida Lesnida, "Penggunaan Kosmetik Berbahaya Dalam Perspektif Hukum Islam," *Al-Fikru: Jurnal Ilmiah* 15, no. 1 (July 7, 2021): 53–64.

governmental powers, and the subjection of all state action to legal norms.²³ When illegal cosmetics are permitted to circulate without effective legal response, the rule of law is undermined in its most practical dimension, as vulnerable consumers are left without the protection that the constitutional framework promises them.

Criminal Offense, Legal Certainty, and Law Enforcement

A criminal offense is legally defined as an act that violates established law, carries a penal sanction, and fulfills both subjective and objective elements that are prescribed in the relevant statutory provision.^{24,25} The objective elements of a criminal offense encompass the prohibited act itself, its resulting consequences, and the causal link between the act and those consequences, while the subjective elements refer to the mental state of the perpetrator, including intention, negligence, or willful disregard of the law. Moeljatno emphasized that a criminal offense is not merely constituted by the existence of a prohibited act but necessarily requires the concurrent presence of fault that is attributable to the perpetrator under law, such that punishment may only be imposed where all elements of the relevant criminal provision have been proved beyond reasonable doubt.²⁶ In the context of illegal cosmetics, the deliberate production and distribution of products containing hazardous substances without a valid distribution permit satisfies both the objective and subjective elements of the offenses prescribed under Articles 196 and 197 of Law No. 36 of 2009 on Health, thereby establishing the basis for criminal liability.

Legal certainty is a principle of equal importance, as it ensures that every act and every policy of the state rests upon a clear, stable, and predictable legal foundation that individuals can know in advance and rely upon in ordering their conduct.²⁷ Gustav Radbruch identified legal certainty as one of three fundamental values that law must serve alongside justice and social utility, and he argued that a legal system lacking in certainty fails in one of its most basic functions.²⁸ In criminal law specifically, the principle of legal certainty demands that no person be subjected to retroactive punishment and that both citizens and enforcement actors understand with clarity what conduct is prohibited and what legal consequences

²³ Carl J. Friedrich, *Die Philosophie Des Rechts in Historischer Perspektive* (Berlin, Heidelberg: Springer Berlin Heidelberg, 1955), <http://link.springer.com/10.1007/978-3-642-86332-5>.

²⁴ Miodrag N. Simović and Vladimir M. Simović, "THE SYSTEM OF SANCTIONS FOR INTERNATIONAL CRIMINAL OFFENSES," *Godišnjak Pravnog Fakulteta u Banja Luci* 1, no. 45 (November 18, 2023), <https://godisnjakpfbf.com/index.php/godisnjak/article/view/227>.

²⁵ Febrian Dwi Putra Cahyono and Sinarianda Kurnia Hartantien, "JUDICIAL REVIEW OF CRIMINAL OFFENSES ON CUSTOMER DATA THEFT OF BANKS IMPLICATED IN THE LOSS OF CUSTOMER'S MONEY," *Journal of Court and Justice* 2, no. 3 (October 27, 2023): 54–68, <https://journal.jfpublisher.com/index.php/jcj/article/view/398>.

²⁶ Moeljatno, *Asas-Asas Hukum Pidana Edisi Revisi* (Jakarta: Rineka Cipta, 2015).

²⁷ Oksana Shcherbanyuk, Vitalii Gordieiev, and Laura Bzova, "Legal Nature of the Principle of Legal Certainty as a Component Element of the Rule of Law," *Juridical Tribune* 13, no. 1 (March 31, 2023), <https://tribunajuridica.eu/arhiva/An13v1/2>. Shcherbanyuk, Gordieiev, Bzova.pdf.

²⁸ Gustav Radbruch, *Rez. v. Joseph Mausbach, Naturrecht Und Völkerrecht*, ed. Arthur Kaufmann, *Rechtsphilosophie, Gesamtausgabe / Gustav Radbruch M4 - Citavi* (C.F. Müller Juristischer Verlag SV - Bd. 1, 1987).

follow from its commission. The application of this principle to illegal cosmetics cases requires that the applicable statutory provisions be consistently enforced, so that potential violators are not emboldened by the expectation of impunity. Law enforcement, in this sense, is the operational bridge connecting the abstract commands of legal norms to the concrete realities of social life. Soerjono Soekanto identified five factors that determine the effectiveness of law enforcement: the substance of the law itself, the law enforcement structures and institutions, the resources available to enforcement actors, the culture of the legal community, and the level of legal awareness among the public.²⁹ Where any of these factors is deficient, as arguably demonstrated by the persistent circulation of illegal cosmetics in Indonesia despite clear statutory prohibitions, the capacity of the legal system to achieve its deterrent and protective objectives is correspondingly diminished.

Licensing, Illegal Cosmetics, and Regulatory Control

Licensing constitutes a core instrument of administrative law through which the state exercises preventive control over activities that carry potential risks to public welfare.³⁰ By requiring that operators obtain prior authorization before engaging in regulated activities, the licensing system enables the state to verify compliance with applicable safety, quality, and ethical standards before harm occurs rather than merely responding to violations after the fact.³² Philipus M. Hadjon described licensing as a concrete expression of governmental discretionary authority within the framework of a law-based state, and he emphasized that for this authority to be legitimate, it must be exercised transparently, accountably, and in strict conformity with the principle of legality so as to prevent abuse of power.³³ In the cosmetics sector, the requirement that all products obtain a distribution permit (izin edar) from BPOM prior to commercialization represents precisely this form of preventive licensing control, as it subjects each product to scientific evaluation of its ingredients, formulation safety, and labeling accuracy before it reaches consumers.

Illegal cosmetics are defined as beauty and personal care products that fail to meet applicable safety standards, have not obtained a valid distribution permit from BPOM, or contain substances that are prohibited or restricted under prevailing regulations, including mercury, hydroquinone above permitted concentrations, and

²⁹ Soekanto and Sulistyowati, *Sosiologi Suatu Pengantar*.

³⁰ Aminuddin Kasim et al., "MINING BUSINEES LICENSING IN INDONESIA: PERSPECTIVE ADMINISTRATIVE LAW AFTER THE REVISION OF THE MINERAL AND COAL LAW," *Russian Law Journal* 11, no. 3 (April 7, 2023), <https://russianlawjournal.org/index.php/journal/article/view/1538>.

³¹ I Made Wisnu Joniada, Ni Komang Arini Styawati, and I Made Arjaya, "THE EFFECTIVENESS OF REGIONAL GOVERNMENT EMPOWERMENT ON PHARMACEUTICAL WHOLESALER LICENSES ON THE BALI PROVINCE," *Journal of Court and Justice* 3, no. 1 (February 28, 2024): 18–29, <https://journal.jfpublisher.com/index.php/jcj/article/view/483>.

³² Ridwan HR, *Hukum Administrasi Negara*, Thirteenth Edition. (Jakarta: Rajawali Press, 2018).

³³ Philipus M Hadjon, *Pengantar Hukum Administrasi Indonesia*, 10th ed. (Yogyakarta: Gadjah Mada University Press, 2008).

certain artificial colorants.³⁴ The circulation of such products poses compounded risks to consumers: in the short term, exposure to hazardous ingredients may cause skin irritation, chemical burns, and allergic reactions, while long-term use has been associated with organ damage, carcinogenic effects, and neurological impairment.³⁵ Law No. 36 of 2009 on Health imposes criminal sanctions of up to fifteen years' imprisonment and substantial fines on parties who produce or distribute pharmaceutical or health products without the requisite authorization, with Articles 196 and 197 specifically addressing cases involving products that do not meet prescribed standards or that are distributed without a valid permit.³⁶ Notwithstanding these provisions, BPOM's supervisory data indicate that the volume of illegal cosmetics intercepted annually remains substantial, reflecting persistent challenges in monitoring supply chains, particularly those operating through informal online marketplaces.³⁷ The effectiveness of the licensing and regulatory framework ultimately depends not only on the coherence of the legal rules themselves but on the sustained commitment of enforcement institutions, including both BPOM in its administrative capacity and the National Police in its criminal law enforcement role, to apply available sanctions with the consistency and rigor that the law demands.

RESEARCH METHODOLOGY

This study employs a normative juridical research method, which examines legal norms as they are expressed in legislation, legal doctrine, and scholarly opinion rather than through empirical field observation.^{38,39} The analysis is directed at evaluating the enforcement of criminal law provisions against the distribution of illegal cosmetic products within the jurisdiction of the East Java Regional Police. A statute approach (*pendekatan perundang-undangan*) serves as the primary analytical framework, with particular attention to Law No. 36 of 2009 on Health

³⁴ Inayatun Nazliyah et al., "Law Enforcement Against Cosmetic Businesses Operating Without a BPOM Distribution Permit," *Journal of Law, Politic and Humanities* 5, no. 3 (March 3, 2025): 2142–2151, <https://dinastires.org/JLPH/article/view/1587>.

³⁵ Alnuqaydan, "The Dark Side of Beauty: An in-Depth Analysis of the Health Hazards and Toxicological Impact of Synthetic Cosmetics and Personal Care Products."

³⁶ Pemerintahan Republik Indonesia, *UU No. 36 Tahun 2009 Tentang Kesehatan*.

³⁷ I Putu Gede Bisma Januartha and I Made Minggu Widyantara, "Consumer Protection Against The Rampant Circulation of Cosmetics Without Bpom Permission In The Practice of Buying and Selling In E-Commerce," *Journal of Law, Politic and Humanities* 4, no. 4 (June 4, 2024): 676–681, <https://dinastires.org/JLPH/article/view/408>.

³⁸ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (April 1, 2020): 20–33, <https://ejournal2.undip.ac.id/index.php/gk/article/view/7504>; Dewi Asri Puannandini et al., "KEBEBASAN BEREKSPRESI MELALUI KARYA DI INDONESIA: STUDI KASUS BAND SUKATANI," *Jurnal Media Akademik (JMA)* 3, no. 7 (July 11, 2025): 3031–5220, accessed October 29, 2025, <https://jurnal.mediaakademik.com/index.php/jma/article/view/2524>.

³⁹ Dr. Suyanto Suyanto, *Metode Penelitian Hukum Pengantar Penelitian Normatif, Empiris Dan Gabungan* (Gresik: Unigress Press, 2022).

and Law No. 8 of 1999 on Consumer Protection as the principal legislative instruments under examination.

Legal materials are drawn from three hierarchical categories: primary sources, comprising the applicable statutory provisions and regulations; secondary sources, including legal textbooks, peer-reviewed journals, and other scholarly legal documents; and tertiary sources, such as legal dictionaries and bibliographic references used to support interpretation. These materials were collected through systematic literature review and subsequently organized in accordance with the analytical needs of the study. The resulting data were analyzed using a descriptive qualitative approach, which aims to explain and interpret legal norms in a structured and accessible manner so as to support the drawing of sound legal conclusions.

RESULT AND DISCUSSION

Legal Protection for Consumers in Cases of Illegal Cosmetic Products

The circulation of illegal cosmetic products within the jurisdiction of the East Java Regional Police constitutes a direct threat to the rights and safety of consumers, making the question of legal protection both urgent and normatively complex.⁴⁰ Under Article 4 of Law No. 8 of 1999 on Consumer Protection, every consumer is guaranteed the right to safety, comfort, and security in the use of goods and services.⁴¹ When these rights are violated through the distribution of cosmetics containing hazardous substances and lacking a valid BPOM distribution permit, the state's obligation to provide meaningful legal protection is activated across multiple dimensions. The harm caused by illegal cosmetics is not merely physical — encompassing conditions such as skin irritation, chemical burns, and organ damage — but extends equally to the financial loss and psychological distress suffered by consumers who purchased products in good faith and had no reasonable means of detecting their illegality.⁴²

Legal protection in this context takes two structurally distinct forms. Preventive protection is realized through BPOM's pre-market authorization system, which requires all cosmetic products to obtain a distribution permit, undergo ingredient notification, and satisfy laboratory safety evaluations before reaching consumers. In the New KLT counterfeiting case examined in this study, the suspect bypassed this system entirely by manufacturing counterfeit products without BPOM registration and without any quality or safety testing, demonstrating that the preventive mechanism alone is insufficient when enforcement against unregistered production is not rigorously pursued. Repressive protection is activated after harm

⁴⁰ Fitri Sembiring Milala and Rahmi Ayunda, "Tinjauan Normatif Terhadap Pertanggung Jawaban Perdata Penjualan Skincare Ilegal Dalam Perspektif Hukum Perlindungan Konsumen," *Petitum* 10, no. 1 (2022).

⁴¹ Pemerintahan Republik Indonesia, *UU No. 8 Tahun 1999 Tentang Perlindungan Konsumen, Sekretariat Negara*, 1988.

⁴² Subekti, *Pokok-Pokok Hukum Perdata* (Jakarta: Intermedia, 2002).

has occurred and operates through criminal prosecution, civil damages claims, and administrative sanctions; Articles 196 and 197 of Law No. 36 of 2009 on Health provide the principal basis for criminal accountability, imposing penalties of up to fifteen years' imprisonment and substantial fines on those who produce or distribute health-related products without authorization or in violation of prescribed safety standards.⁴³ In the case under examination, the suspect was charged simultaneously under these health law provisions and Article 62 of Law No. 8 of 1999 on Consumer Protection, reflecting the legislature's recognition that such conduct injures both public health and consumer welfare interests concurrently.

Despite the availability of these mechanisms, significant obstacles persist in the practical realization of consumer protection. Many consumers harmed by illegal cosmetics are unaware of available legal remedies or lack sufficient evidence to pursue a formal complaint, particularly because health effects from hazardous cosmetic ingredients may manifest gradually rather than immediately.⁴⁴ Access to free or affordable legal assistance through legal aid institutions and consumer advocacy organizations is therefore a structural necessity rather than an optional supplement to the enforcement framework. The East Java Regional Police's Directorate of Special Criminal Investigation (Ditreskrim) plays a critical role by initiating investigation and prosecution independently of consumer complaints, thereby extending institutional protection to victims who would otherwise be unable to assert their rights. The effectiveness of this institutional role depends, however, on adequate inter-agency coordination with BPOM, sufficient investigative resources, and sustained institutional prioritization of illegal cosmetics cases.

A further dimension of consumer protection that warrants analytical attention concerns the responsibility of business operators under the Consumer Protection Law. Article 7 of Law No. 8 of 1999 obliges every business actor to act in good faith, to provide accurate information regarding the quality, composition, and safety of products offered for sale, and to guarantee that goods distributed conform to applicable standards.⁴⁵ In the New KLT case, the suspect violated each of these obligations simultaneously: the products were misrepresented as genuine branded items, their composition was concealed from purchasers, and their formulation using wholly unsuitable raw materials placed consumers at direct risk of harm. The deliberate suppression of accurate product information removes from consumers the basic capacity to make informed choices — a capacity that the Consumer Protection Law treats as a right rather than a privilege — and this suppression itself constitutes an independent legal wrong distinct from the criminal health law violations. Recognizing the multi-layered character of the obligation violated in such cases is important for enforcement practice, as it supports the pursuit of both

⁴³ Pemerintahan Republik Indonesia, *UU No. 36 Tahun 2009 Tentang Kesehatan*.

⁴⁴ Rahardjo, *Hukum Dan Masyarakat*.

⁴⁵ Pemerintahan Republik Indonesia, *UU No. 8 Tahun 1999 Tentang Perlindungan Konsumen*.

criminal and civil liability concurrently and strengthens the normative case for treating consumer protection not merely as a regulatory side concern but as a core objective of illegal cosmetics prosecution.

Criminal Law Enforcement Against Illegal Cosmetic Distribution in East Java

The enforcement of criminal law against illegal cosmetic distribution within the East Java Regional Police jurisdiction involves a coordinated process encompassing investigation, evidence collection, laboratory analysis, and prosecution under applicable statutory provisions. The Directorate of Special Criminal Investigation at Polda Jawa Timur operates as the primary institutional actor, coordinating with regional BPOM offices to verify the regulatory status of seized products and establish the scientific basis for criminal prosecution. In the New KLT case, law enforcement authorities traced the suspect's distribution network, identified the raw materials used in production, and confirmed through laboratory analysis that the products failed to meet applicable cosmetic safety standards. The suspect's monthly revenues reportedly reaching hundreds of millions of rupiah from online sales of counterfeit products further demonstrated the commercial scale of the offense and the economic harm caused to both legitimate trademark holders and deceived consumers.

The prosecution in this case rests principally on Articles 196 and 197 of Law No. 36 of 2009 on Health. Article 196 addresses the production or distribution of pharmaceutical preparations that do not conform to prescribed standards, carrying a maximum penalty of ten years' imprisonment and a fine of up to one billion rupiah, while Article 197 specifically targets production or distribution without a valid distribution permit, carrying a maximum penalty of fifteen years' imprisonment and a fine of up to one and a half billion rupiah.⁴⁶ The application of both provisions reflects the dual illegality of the suspect's conduct: the products were manufactured without BPOM authorization and formulated using unsuitable raw materials that failed to meet safety standards. The concurrent charges under Article 106 of Law No. 7 of 2014 on Trade and Article 62 of Law No. 8 of 1999 on Consumer Protection further affirm the multi-dimensional character of the violations, addressing commercial fraud and consumer harm alongside the primary public health offense. Structural limitations nonetheless constrain the full deterrent potential of this framework, including the difficulties of monitoring online distribution channels, the use of fictitious business identities by perpetrators, and the fragmented coordination between enforcement agencies across jurisdictions.

Applying Soerjono Soekanto's five-factor model of law enforcement effectiveness to the East Java context yields a nuanced assessment of where the current framework succeeds and where it falls short. From the perspective of legal substance, the statutory framework is demonstrably adequate: Articles 196 and 197 of the Health Law, together with the Consumer Protection Law, collectively cover

⁴⁶ Pemerintahan Republik Indonesia, *UU No. 36 Tahun 2009 Tentang Kesehatan*.

all dimensions of the offense and prescribe sufficiently severe penalties to serve as credible deterrents in principle. The deficiencies identified in this study lie instead in the remaining four factors. Enforcement structures at Polda Jawa Timur possess the institutional mandate and technical capacity to investigate illegal cosmetics cases, but the absence of a formalized inter-agency protocol with BPOM creates coordination inefficiencies that slow investigation timelines and risk evidentiary gaps. In terms of resources, the volume of online cosmetics transactions that require monitoring significantly exceeds the current capacity of enforcement personnel, leaving large segments of the digital marketplace effectively unsupervised. At the level of legal culture, the persistent demand for low-cost cosmetic products among price-sensitive consumer segments sustains a market for counterfeit goods that supply-side enforcement alone cannot eliminate. Finally, public legal awareness regarding the requirement to verify BPOM registration numbers before purchasing cosmetic products remains insufficiently developed, meaning that consumer vigilance as a first line of defense against illegal products cannot be relied upon. Addressing these structural deficiencies requires targeted institutional reform rather than merely stricter application of existing statutory penalties.

Equally important is the role of digital platforms as an enabling environment for illegal cosmetics distribution. The New KLT case demonstrated that online marketplaces allow perpetrators to reach a geographically dispersed consumer base while maintaining operational anonymity through the use of multiple seller accounts, frequently changed product listings, and delivery arrangements that obscure the physical location of manufacturing.⁴⁷ Conventional enforcement tools — including physical raids, seizure of stock in trade premises, and border interception — are poorly suited to this operating model, as the inventory may be dispersed across multiple locations and reconstituted rapidly following any single enforcement action. The development of digital monitoring capabilities within Polda Jawa Timur, including algorithmic surveillance of marketplace listings for products lacking BPOM registration numbers, and formal cooperation agreements with major e-commerce platforms obliging them to delist unauthorized cosmetic products, would substantially strengthen the enforcement capacity of regional police in addressing this evolving criminal modality.⁴⁸ Legislative reform to introduce platform liability provisions for facilitating the sale of unregistered health products would further close the gap that currently allows digital intermediaries to benefit commercially from illegal transactions without bearing corresponding legal responsibility.

⁴⁷ Kashuri, Ikrar, and Indrayanto, “Analysis of Trends in Cosmetics Supervision Cases in Indonesia in 2021-2024.”

⁴⁸ Desi Sommaliagustina, Helfira Citra, and Sry Wahyuni, “URGENSI PERLINDUNGAN HUKUM KONSUMEN E-COMMERCE DALAM PERDAGANGAN PRODUK KECANTIKAN DI KOTA PADANG,” *Ensiklopedia of Journal* 5, no. 3 (April 29, 2023): 346–353, accessed February 18, 2026, <https://jurnal.ensiklopediaku.org/ojs-2.4.8-3/index.php/ensiklopedia/article/view/1678>.

Situating the Findings within Prior Research: Convergences, Extensions, and Contradictions

The findings of the present study converge with, and in several important respects extend, the conclusions of prior scholarship on illegal cosmetics and consumer protection law enforcement in Indonesia. Tungga, Kadja, and Amalo concluded that criminal sanctions under the Consumer Protection Law are insufficiently deterrent because they fail to address the economic incentives driving illegal cosmetics production.⁴⁹ This study supports that conclusion and extends it by showing, through the New KLT case, that deterrence failure is further compounded by the multi-jurisdictional nature of online distribution networks, which render enforcement responses reactive and geographically fragmented. Whereas Tungga et al. focused on sentencing outcomes in a single court decision, the present analysis situates this deterrence failure within the broader institutional architecture of police-led enforcement, identifying inter-agency coordination gaps between Polda Jawa Timur and BPOM as a structural contributing factor that prior scholarship has not yet examined. The findings of Sebayang et al regarding the structural inadequacy of compensatory mechanisms for victims of illegal cosmetics are likewise directly confirmed here.⁵⁰ The New KLT case illustrates precisely the scenario those authors described: a perpetrator operating through online platforms who caused measurable harm to consumers yet against whom civil compensation claims remain practically inaccessible to affected individuals owing to evidentiary and procedural barriers.

The present study also extends the national trend analysis published in *Eruditio*, which documented persistent increases in illegal cosmetics despite BPOM enforcement activity, by offering a jurisdiction-specific explanation for that trend.⁵¹ The East Java case reveals that the persistence of illegal distribution reflects not only deficiencies in BPOM's administrative oversight capacity but also the underutilization of available criminal law mechanisms by police institutions — a finding that regulatory-focused studies have been unable to capture because they do not extend their analysis to the criminal enforcement domain. In one significant respect, however, this study's findings depart from those of earlier research. Several prior studies implicitly treated administrative licensing reform and enhanced BPOM supervision as sufficient responses to the illegal cosmetics problem.⁵² The present analysis contradicts this assumption by demonstrating that administrative

⁴⁹ Tungga, Kadja, and Heryanto, “Perlindungan Konsumen Dari Aspek Hukum Pidana Terhadap Peredaran Kosmetik Ilegal.”

⁵⁰ Sebayang et al., “Application Of The Law For The Criminal Act Of Sale Of Illegal Cosmetic Products Sold Online (Study Of Decisions No.82/Pid.Sus/2024/Pn Smm And No.123/Pid.Sus/2024/Pn Bir).”

⁵¹ Kashuri, Ikrar, and Indrayanto, “Analysis of Trends in Cosmetics Supervision Cases in Indonesia in 2021-2024.”

⁵² Firmantoro and Suvinah, “Kosmetik Ilegal, Otoritas Pengawasan, Dan Profesi Medis: Kajian Hukum Administrasi Di Indonesia.”

and criminal law enforcement are complementary rather than substitutable mechanisms, and that the absence of consistent police-led criminal prosecution creates an enforcement gap that regulatory reforms alone cannot close. This reframing — from a primarily administrative problem to a dual-track enforcement challenge requiring coordinated action across both regulatory and criminal domains — constitutes the central analytical contribution of this study to the existing body of literature.

Beyond these specific convergences and divergences, the present study contributes a theoretical refinement to the existing literature by applying Soekanto's law enforcement effectiveness framework to the institutional reality of regional police operations in Indonesia, a level of analysis that prior studies on illegal cosmetics have not undertaken. This application reveals that the determinants of enforcement failure in East Java are not primarily legislative in nature — the statutory framework is, as noted, normatively sufficient — but are instead institutional, cultural, and technological. This distinction carries important implications for policy design: if enforcement failure is predominantly institutional rather than legislative, then the appropriate policy response is institutional reform, namely the establishment of formalized inter-agency protocols, investment in digital enforcement capacity, and the development of structured public education programs, rather than the enactment of yet more stringent statutory penalties that will remain underenforced in the absence of the institutional preconditions necessary to apply them. This finding is consistent with the broader comparative law enforcement literature, which consistently identifies implementation capacity as a more binding constraint on legal effectiveness than the formal severity of statutory sanctions, and it positions the present study's contribution within an international scholarly conversation that extends well beyond the specific context of Indonesian cosmetics regulation.

CONCLUSION

The present study has demonstrated that the criminal law framework applicable to illegal cosmetic products in Indonesia, particularly under Articles 196 and 197 of Law No. 36 of 2009 on Health and Article 62 of Law No. 8 of 1999 on Consumer Protection, provides a normatively sufficient basis for prosecuting perpetrators who manufacture and distribute unauthorized and hazardous cosmetic products. The New KLT counterfeiting case examined within the jurisdiction of the East Java Regional Police illustrates that such violations carry serious consequences for consumer health and safety, cause substantial economic harm, and operate through distribution networks that deliberately exploit the monitoring limitations of conventional regulatory oversight. Notwithstanding the availability of this legal framework, enforcement remains structurally constrained by inadequate inter-agency coordination, the proliferation of online distribution channels that evade

detection, and the persistent gap between administrative supervision and criminal law prosecution that leaves consumers without effective protection in practice.

These findings carry clear implications for law reform and institutional practice. Criminal enforcement against illegal cosmetics must be treated as a dual-track obligation requiring both sustained police-led prosecution and rigorous administrative supervision by BPOM, rather than as an either-or policy choice between regulatory and criminal responses. Stricter and more consistently applied sanctions are necessary to produce a genuine deterrent effect, while expanded access to legal aid and victim compensation mechanisms is needed to ensure that consumer protection operates not only on paper but in the lived experience of those who suffer harm. Future research should examine the sentencing patterns applied in illegal cosmetics cases across multiple jurisdictions in Indonesia, with a view to assessing whether judicial practice aligns with the deterrent objectives that the legislature intended when enacting the relevant statutory provisions.

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