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Problems of Law Enforcement against Perpetrators of Production and Distribution of Oplosan in East Java Regional Police

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ABSTRACT

The low purchasing power and high cost of legal alcoholic beverages in Indonesia has led to an increase in the demand for locally produced oplosan (mixed) alcoholic beverages. This phenomenon is a serious concern for law enforcement officials, particularly in the East Java Regional Police, considering the significant increase in the manufacture and distribution of oplosan. Despite this, the sale of legal alcoholic beverages remains quite common and high. This research aims to identify the various challenges faced by law enforcement in prosecuting perpetrators responsible for the production and distribution of oplosan. Using empirical research methodology and in-depth interviews with law enforcement officials at the East Java Regional Police, this research revealed significant difficulties in enforcing the law against this illegal practice. The findings of this research revealed that consuming illegal alcoholic beverages, such as oplosan, poses a high health risk to the people who consume them. Strict laws on alcohol consumption and the low price of oplosan have led to an increase in its sale. The production and distribution of oplosan is regulated by criminal law in Indonesia, with severe sanctions for violators. Despite the legislative framework aimed at protecting the public, law enforcers in the East Java Regional Police face obstacles, such as geographical factors, the common drinking culture, economic issues, and the lack of consequences for violators.

Keywords: *East Java Regional Police, Law Enforcement Problems, Oplosan*

INTRODUCTION

The tradition of alcohol consumption in Indonesia is longstanding, with various types of beverages undergoing fermentation and distillation processes. These beverages can be divided into two categories, including alcoholic beverages obtained through fermentation and distillation, and those that only undergo fermentation.¹ In addition, there is also a type of oplosan in Indonesia, which refers to alcoholic beverages that are illegally mixed with additional ingredients, including harmful substances such as methanol.² The local term 'oplosan' (lit. mixed) refers to the process of mixing alcohol with other ingredients to increase the volume or alcohol level without regard to safety. These mixtures often contain toxic substances that may cause serious effects such as poisoning, blindness, and death. The process of making oplosan usually does not comply with safety standards or government regulations, making the risk of consumption very high, especially since it often involves hazardous ingredients that should never be consumed.

Teenagers are one of the most significant groups in liquor consumption. In the market, in addition to legal liquor, there is also a lot of illegal liquor, including oplosan. These drinks often contain methanol, which can be fatal if consumed, as well as methylene alcohol. Methanol itself is an industrial substance commonly used as a cleaner, solvent, and paint remover. Furthermore, oplosan often contains other chemical additives whose types and concentrations are not clearly known.³

Ironically, sellers of oplosan often receive only minor punishments and are not threatened with severe sanctions, despite the fact that anyone who distributes dangerous goods that can cause death is punishable by life imprisonment or a maximum of 20 years imprisonment under Article 204 of the Criminal Code.⁴ Despite the sale of liquor being regulated by various laws, the minor penalties for violators are ineffective as a deterrent.

¹ Renni Sartika, "Penanggulangan Peredaran Ilegal Minuman Keras Tradisional Dengan Sarana Hukum Pidana (Studi Kasus Di Kabupaten Sleman Yogyakarta)," *Jurnal Ilmu Hukum* (2014): 1–13, <http://e-journal.uajy.ac.id/id/eprint/6005>.

² Risna Yekti Mumpuni, "Tata Laksana Keracunan Minuman Keras Oplosan (Metanol Dan Ethylene Glycol) Dengan Fomepizole, Etanol, Dan Heodialisis," *Journal Nursing Care and Biomolecular* 1, no. 1 (March 21, 2017): 1–8, <http://jnc.stikesmaharani.ac.id/index.php/JNC/article/view/3>.

³ Safri Miradj, "Dampak Minuman Keras Terhadap Perilaku Generasi Muda (Gamsungi Kecamatan Ibu Selatan Kabupaten Halmahera Barat)," *Al-Wardah: Jurnal Kajian Perempuan, Gender, dan Agama* 14, no. 1 (2020): 65–86, <https://journal.iain-ternate.ac.id/index.php/alwardah/article/view/245>.

⁴ I Wayan David, "Kedudukan Pidana Seumur Hidup Dalam Kerangka Pembentukan Hukum Pidana Nasional," *Lex Crimen* 10, no. 4 (2021): 133–143, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/33407>; Ramses Hutagaol, "Perbandingan Kedudukan Penyidik Tindak Pidana Narkotika Menurut Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika Dan Kitab Undang-Undang Hukum Pidana," *Jurnal Ilmiah Penegakan Hukum* 6, no. 2 (December 3, 2019): 86, <http://ojs.uma.ac.id/index.php/gakkum/article/view/2727>.

It requires the participation and cooperation of various parties, both the community and the Indonesian National Police. In addition, in accordance with Regulation of the Minister of Trade of Indonesia No. 97/2020, every alcoholic beverage business must comply with a number of regulations, including Regulation of the Minister of Trade No. 10/M-Dag/Per/1/2015 that regulates the control and supervision of the distribution and sale of alcoholic beverages. In order to conduct alcoholic beverage business, businesses are required to obtain an Alcoholic Beverage Business License (SIUP-MB). According to Paragraph 16 of Article 1,” A business license, hereinafter abbreviated as SIUP, is a license to conduct business activities in trade,” while Article 17 explains that “A business license for trading alcoholic beverages, hereinafter abbreviated as SIUP-MB, is a license to conduct business activities in the special trade of alcoholic beverages.”

The production and distribution of oplosan is usually prohibited in Indonesia. In order for law enforcement to not be interpreted as a matter of enforcement against legal distribution, legal clarity is required in regulating sanctions under the current positive law standards. It is necessary to distinguish between oplosan and alcoholic beverages, as there is no specific provision on oplosan in the positive law. In law enforcement, this ambiguity should be addressed in order for regulations to be applied effectively and equitably. Therefore, this research aims to identify the challenges faced by law enforcement in the East Java Regional Police in pursuing perpetrators responsible for the production and distribution of oplosan.

LITERATURE REVIEW

Theory of Law Enforcement

John Austin, an English philosopher as cited by Budiono, argues that law is an order from the ruler or the party who holds the highest power.⁵ In Austin's view, law is in charge of governing thinking beings, and thinking beings with power carry out this mandate. Austin explains that there are four major components to law: commands, sanctions, obligations, and sovereignty, which are established by rulers for the benefit of their subjects.

The purpose of law enforcement is to realize the legal principles and values aspired by the public. The law enforcement process involves various stages. Andi Hamzah introduced the term *rechtshandhaving* from Dutch to describe law enforcement.⁶ He also mentioned *Milieurecht Handhaving* in 1981. The implementation of general and specific laws allows for supervision as well as the implementation (or threat of implementation) of administrative, criminal, or civil

⁵ Arief Budiono et al., “John Austin’s Positivism Legal Policy: Convergence of Natural Law,” *International Journal of Multicultural and Multireligious Understanding* 8, no. 9 (September 24, 2021): 401, <https://ijmmu.com/index.php/ijmmu/article/view/3058>.

⁶ Eko Nur Setiawan, Soediro Soediro, and Astika Nurul Hidayah, “Law Enforcement of Breach of Use of Seman Pantan Kranji River in Banyumas Regency,” *UMPurwokerto Law Review* 1, no. 1 (August 5, 2020): 44, <http://jurnalnasional.ump.ac.id/index.php/umplr/article/view/7732>.

instruments, known as handhaving. The two key stages in law enforcement behavior are the compliance phase, which is preventive, and the enforcement phase, which is repressive.⁷

Law enforcement can be seen through two approaches or strategies, which include compliance, with conciliation style as its main characteristic, and sanctioning, with penal style as its characteristic.⁸ The compliance approach emphasizes cooperation and voluntary adherence to legal norms rather than punitive measures.⁹ Central to this strategy is a conciliation style, which fosters dialogue, negotiation, and mediation to resolve issues without immediately resorting to punitive actions. This method is based on the belief that building a cooperative relationship between law enforcement agencies and the public can lead to greater compliance with the law.¹⁰

In this approach, law enforcement authorities often prioritize educational initiatives, engaging the public through community outreach programs, workshops, and informational campaigns designed to enhance understanding of legal obligations and the importance of compliance. By focusing on prevention, authorities aim to identify at-risk populations or areas and address the root causes of potential violations before they occur. Voluntary compliance mechanisms, such as grace periods for infractions, warning notices, and opportunities for self-correction, are also employed to encourage adherence without creating an adversarial relationship.

Conversely, the sanctioning approach is characterized by a more punitive stance towards law enforcement. This strategy relies heavily on penal measures, emphasizing punishment to deter illegal behavior. The underlying philosophy is that instilling a fear of punishment will discourage individuals and organizations from violating the law. A key element of this approach is the establishment of clear legal frameworks that outline the penalties for various offenses, which serves to deter potential offenders by making them aware of the risks associated with their actions.

In the sanctioning approach, law enforcement agencies often engage in strict enforcement practices, including surveillance, inspections, and investigations, to

⁷ Derita Prapti Rahayu et al., "Law Enforcement in the Context of Legal Culture in Society," *LAW REFORM* 16, no. 2 (September 27, 2020): 276–289, <https://ejournal.undip.ac.id/index.php/lawreform/article/view/33780>.

⁸ Nurul Listiyani, Muzahid Akbar Hayat, and Ningrum Ambarsari, "Penegakan Hukum Administrasi Lingkungan Melalui Instrumen Pengawasan: Rekonstruksi Materi Muatan Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Al' Adl* 12, no. 1 (2020): 116–130, <https://ojs.uniska-bjm.ac.id/index.php/aldli/article/download/2650/1986>.

⁹ Robayet Ferdous Syed, "Compliance with and Enforcement Mechanism of Labor Law: Cost-Benefits Analysis from Employers' Perspective in Bangladesh," *Asian Journal of Business Ethics* 12, no. 2 (December 4, 2023): 395–418, <https://link.springer.com/10.1007/s13520-023-00179-0>.

¹⁰ Daniel S. Nagin and Cody W. Telep, "Procedural Justice and Legal Compliance," *Criminology & Public Policy* 19, no. 3 (August 15, 2020): 761–786, <https://onlinelibrary.wiley.com/doi/10.1111/1745-9133.12499>.

identify and penalize violators swiftly. This method prioritizes certain and immediate punishment to reinforce the seriousness of legal compliance. However, the use of punitive measures can shape public perceptions of authority and law enforcement. While it can create a sense of order and adherence to laws, it may also foster distrust and fear within the community, particularly if enforcement actions are perceived as overly aggressive or disproportionate.

Ultimately, the choice between compliance and sanctioning strategies in law enforcement reflects broader societal values and priorities concerning justice and social order. A balanced approach that incorporates elements of both compliance and sanctioning may prove most effective, as it can address the complexities of human behavior and the varying motivations for compliance. By integrating educational efforts with a clear enforcement framework, law enforcement agencies can create an environment where individuals feel encouraged to adhere to the law while understanding the consequences of non-compliance.

Alcoholic Beverages

Alcoholic beverages, distilled beverages, and liquor are beverages containing ethanol, which is obtained through distillation from ethanol produced from the fermentation of grains, fruits, or vegetables.¹¹ Liquor includes rum, whiskey, brandy, baijiu, gin, vodka, tequila and soju.

In the Presidential Decree, what is meant by alcoholic beverages are drinks containing ethanol processed from agricultural products containing carbohydrates through a fermentation process with or without distillation. This process may involve pretreatment or the addition of ethanol concentrate, or be carried out by diluting beverages that already contain ethanol. This definition refers to Presidential Decree of Indonesia No. 3/1997 on the Supervision and Control of Alcoholic Beverages, as explained in Article 1.¹²

Alcoholic beverages are defined as drinks containing ethanol, which is produced through the fermentation of various carbohydrate-containing materials, such as grains or gums, or through distilling the products of such fermentation. These liquors are then classified into categories A, B, and C. Category A includes drinks with an alcohol content of 5% or less, such as beer and light cocktails. These are widely available in stores and restaurants due to less strict regulations. Category B consists of beverages with an alcohol content between 5% and 20%, including certain wines and stronger cocktails. Their sale is more regulated, requiring specific permits and often restricted to licensed retailers. Category C encompasses

¹¹ Rokom, "Bahaya Minuman Beralkohol Bagi Kesehatan," *Sehat Negeriku*, last modified 2014, <https://sehatnegeriku.kemkes.go.id/baca/rilis-media/20141211/3011602/bahaya-minuman-beralkohol-bagi-kesehatan/#:~:text=Kandungan minuman beralkohol yang biasa,melainkan metyl alkohol atau metanol.>

¹² Presiden Republik Indonesia, *Keputusan Presiden (Keppres) Nomor 3 Tahun 1997 Tentang Pengawasan Dan Pengendalian Minuman Beralkohol* (Indonesia, 1997), [https://peraturan.bpk.go.id/Details/59535/keppres-no-3-tahun-1997.](https://peraturan.bpk.go.id/Details/59535/keppres-no-3-tahun-1997)

beverages with over 20% alcohol, such as spirits and liquors. These are subject to the strictest regulations, with sales limited to licensed establishments and restrictions on public consumption.¹³

Alcoholic Beverages Distribution

The Indonesian government closely monitors the import of alcoholic beverages through the Directorate General of Customs and Excise (DGCE) under the Ministry of Finance of the Republic of Indonesia. In customs and excise terminology, alcoholic beverages are known as Drinks Containing Ethyl Alcohol (MMEA). This supervision aims to ensure that the distribution of alcoholic beverages in Indonesia runs in accordance with applicable regulations, as well as to minimize potential violations such as smuggling or illegal distribution. MMEA imports and exports in Indonesia can only be conducted by special importers with official licenses from the government. These importers are responsible for managing the entire MMEA import process from abroad, including document processing, duty payment, and fulfillment of other requirements set by DGCE.¹⁴

In the context of MMEA trade and distribution, the term distribution encompasses any action or series of actions related to a transaction, including offering to sell, delivery, and exchange of goods in exchange for a specific reward. This distribution is closely monitored to ensure that every process of buying and selling and distribution of alcoholic beverages follows the applicable laws and regulations in Indonesia.

RESEARCH METHODOLOGY

This research is known as empirical research, which uses data from interviews and field observations as its primary sources. Given that the authors investigate the problems faced by law enforcers at the East Java Police Criminal Investigation Directorate in attempting to arrest perpetrators responsible for the production and distribution of oplosan drinks, this research is categorized as empirical research.

The methodology applied in this research is legal methodology, particularly involving the study of relevant laws and regulations.¹⁵ This research applies a case study approach, a research method in the social sciences known as the case approach. In this research, primary and secondary legal materials are used, in accordance with the previous description of the characteristics of empirical research adopted in this research.

¹³ Sekplin Sekeon, "Intoksikasi Alkohol," *Kemendes Direktorat Jenderal Pelayanan Kesehatan*, last modified 2022, https://yankes.kemkes.go.id/view_artikel/1149/intoksikasi-alkohol#:~:text=Minuman dengan kadar etanol 1,20%25 sampai dengan 55%25.

¹⁴ Novi Dian Pertiwi et al., "Analisis Kontribusi Penerimaan Cukai MMEA Sebagai Penerimaan Cukai Pada Kantor Pengawasan Dan Pelayanan Bea Dan Cukai Tipe Madya Pabean B Palembang," *Jurnal Media Wahana Ekonomika* 19, no. 2 (July 5, 2022): 272, <https://jurnal.univpgri-palembang.ac.id/index.php/Ekonomika/article/view/8936>.

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, Cet 13. (Jakarta: Kencana, 2017).

Primary legal materials were obtained from observations and documentation conducted with relevant parties, including the Managing Director of the Oplosan Alcohol Abuse Prevention Department. In this research, the laws and regulations used include the Criminal Code, East Java Provincial Regulation No. 66/2018 on the Implementation Regulation of East Java Provincial Regulation No. 6/2014 on the Control and Supervision of the Distribution of Alcoholic Beverages, and MOT Regulation No. 120/2018 on the Fifth Amendment to the Regulation of the Minister of Trade No. 20/M-Dag/Per/4/2014 on the Supervision of the Procurement, Distribution and Sale of Alcoholic Beverages. Other relevant literature on the topic of this research was also used as secondary sources.

The collected legal materials were analyzed using a qualitative method, which is a research approach that produces analytical descriptive data. The purpose of this analysis is to describe the facts discussed in this research, then formulate recommendations and conclusions using deductive reasoning, i.e. drawing conclusions from general matters to more specific matters.

RESULT AND DISCUSSION

Regulation of the Distribution of Oplosan under Indonesian Criminal Law

The distribution of oplosan drinks will likely never stop, as demand from consumers continues to be high. The number of oplosan drinkers, both adults and teenagers, continues to grow. These drinks are often the cause of criminal behavior in society and may even lead to death. Since the sale of legal alcoholic beverages is severely restricted, many people openly sell oplosan drinks illegally. When the distribution of oplosan drinks causes disturbances in society, law enforcement officials move quickly to arrest those who produce and distribute these dangerous drinks.

There are several articles in the Criminal Code (KUHP) that can be used to prosecute those involved in the production and distribution of oplosan drinks. For example, Article 340 of the Criminal Code addresses premeditated murder: “Whoever intentionally and with premeditation takes the life of another person, shall be punished by death, life imprisonment, or imprisonment for a specified term, not exceeding 20 years.”

Moreover, Article 204 of the Criminal Code regulates unlawful acts that endanger the life or health of another person:

1. Article 204 Paragraph 1: “Any person who sells, offers for sale, delivers or distributes goods of which he knows that they endanger the life or health of another person, and of the nature of the endangerment has not been disclosed, shall be punished by a maximum imprisonment of fifteen years.”

2. Article 204 Paragraph 2: “If any person dies as a result of such act, the offender shall be punished by life imprisonment or a maximum imprisonment of twenty years.”

In addition to the Criminal Code, several provisions in Law No. 18/2012 on Food are also relevant, particularly with regard to the use of hazardous ingredients in food products:

1. Article 137 Paragraph 1 states: “Any person who produces genetically modified food without obtaining food safety approval prior to distribution, shall be punished with imprisonment of up to 5 years or a maximum fine of IDR 10,000,000,000 (ten billion rupiah).”
2. Article 138 stipulates that any person who intentionally uses packaging materials that may endanger human health in food production shall be punished with imprisonment of 2 years or a maximum fine of IDR 4,000,000,000 (four billion rupiah).
3. Article 146 Paragraph 1 letter b states that if the act causes the death of another person, the perpetrator may be punished with imprisonment for a maximum of 10 years or a maximum fine of IDR 20,000,000,000 (twenty billion rupiah).¹⁶

Positive law aims to achieve social justice, control people's behavior, and resolve conflicts.¹⁷ The major components of positive law include the control of social behavior, the enforcement of rules through official channels, the use of coercion, and the imposition of severe penalties for those who violate legal norms. In the context of oplosan drink distribution, positive law serves to protect the public from the health and safety risks posed by the hazardous alcohol.

Destruction of public facilities, traffic accidents, murders, conflicts, and persecution are among the crimes that could be triggered by the consumption and distribution of oplosan drinks. Therefore, positive law creates sanctions that are enforced against producers, distributors, and retailers of oplosan drinks to address the risks posed to public health and safety.

Problems of Law Enforcement against Perpetrators of Production and Distribution of Oplosan in the East Java Police Region

There is no doubt that the problem of oplosan distribution has attracted the attention of many parties, including the general public and law enforcement officials. Therefore, in order to stop the distribution of oplosan that has occurred or will occur, close cooperation between law enforcement and the community is

¹⁶ Pemerintah Pusat Indonesia, *Undang-Undang (UU) Nomor 18 Tahun 2012 Tentang Pangan* (Indonesia, 2012), <https://peraturan.bpk.go.id/Details/39100>.

¹⁷ Sulaksono, “Legal Culture Deconstruction in Indonesian Legal System,” *IUS POSITUM: Journal of Law Theory and Law Enforcement* 2, no. 1 (January 11, 2023): 1–10, <https://journal.jfpublisher.com/index.php/jlte/article/view/227>.

required. There are many factors that complicate the East Java Regional Police in enforcing the law against oplosan related crimes, one of which is the dense population of the province, especially in urban areas such as Surabaya. This population density facilitates the distribution of illegal products such as oplosan drinks, due to the high demand from various groups.

In addition, good infrastructure and accessibility in East Java, including a well-established transportation network, also facilitate the distribution of oplosan drinks. This convenience allows oplosan to reach consumers faster and stealthier, making it difficult for law enforcement officials to detect movements and changes in demand. This is further exacerbated by the fact that drinking culture, albeit on a limited scale, has become part of the habit in some social circles, especially in the context of social gatherings such as birthday and wedding celebrations. In some cases, alcohol consumption has even become an escape for individuals facing life pressures.

Another factor influencing the distribution of oplosan is the high tax burden on legal alcoholic beverages. As a result, part of the society, especially the lower middle class, opt for cheaper oplosan drinks as an alternative. Loose regulations on alcohol distribution in Indonesia also contribute. Most of the offenders do not fear punishment as the existing laws are not strict enough to crack down on the distribution of oplosan.

One of the main challenges faced by law enforcement officials in investigating the distribution of oplosan is the lack of strong physical evidence. The network of oplosan producers and distributors is generally highly organized, making it difficult for law enforcement to identify and collect concrete evidence. Raid operations often fail due to information leaks that allow the perpetrators ample time to hide their products in various secure locations.

In addition, limited time and resources to conduct consistent patrols and surveillance allow perpetrators to continue running their illegal businesses. The public's reluctance to report, either due to fear or familiarity with the existence of oplosan drinks, is also a major impediment to law enforcement efforts. Often, people tend to be reluctant to cooperate because they feel threatened by perpetrators who may possess strong influence in their neighborhoods.

Current technological advances have also facilitated the perpetrators in carrying out the distribution of oplosan drinks. They use various methods, from instant messaging apps to social networks, to sell their products discreetly. This technology provides room for perpetrators to operate undetected by law enforcement, thus prolonging the cycle of oplosan distribution.

Addressing this issue requires a more holistic approach, including increased cooperation between communities and law enforcement officials, the implementation of tougher regulations, and the use of modern technology to track and disrupt illegal distribution networks. Without these measures, the oplosan drinks trade will continue to pose a threat to public health and safety.

CONCLUSION

People who consume illegal alcoholic beverages, especially oplosan, can face significant health risks. Strict laws governing the legal consumption of alcohol and the low price of oplosan contribute to the increase in sales of such drinks. The production and distribution of oplosan is strictly regulated by criminal law in Indonesia, and those involved in this crime risk facing severe penalties. Indonesia's positive legislative framework aims to protect the public from the harmful effects of illegal alcohol consumption by enforcing strict regulations and imposing severe punishments on offenders.

However, there are significant deterrents that prevent law enforcers in the East Java Regional Police from arresting those responsible for the production and distribution of oplosan. These deterrents include geographical considerations, the prevalent drinking culture, economic concerns, and the lack of perceived consequences for offenders.

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