

**PROPRIETY ANALYSIS BY EXCLUDING EDUCATION FROM THE DEFINITION OF 'SERVICE' IN THE CONSUMER PROTECTION LAW AT BUDDHIST COLLEGES****Rida Jelita**

Universitas Islam Riau, Indonesia

Email: rida.jelita@sekha.kemenag.go.id

**Abstract**

Consumers are King is a paradigm that has been accepted by the general public for a long time. According to Law No. 8/1999, consumer protection is defined as all efforts to ensure legal certainty to provide protection for consumers. However, the implementation of consumer protection in the Buddhist College (STAB), has not received attention. In fact, somewhat neglected. This article discusses the results of research on consumer protection for students at STAB. This research uses the Normative Legal Research method. Starting with identifying the consumer protection aspect for STAB students ideally provided by education providers. The results of the study indicate that the views of students on consumer protection are very important to be given and applied at STAB.

**Keywords:** Consumer, Protection; Buddhist College**INTRODUCTION**

Ten years ago, about 70 students from an engineering institute in Gondia, Maharashtra, filed a police complaint alleging that the institute had deceived them (Priyambodo, 2015). They have paid 30,000 Rupees to take a diploma course offered by the institute, based on an advertisement claiming recognition and affiliation.

However, the institution is not recognized because after one year of students taking the course, the institution does not hold an exam. To curb such misleading advertising by educational institutions, the Advertising Standards Council of India (ASCI), a self-regulatory body of the advertising industry, has formulated detailed advertising guidelines for educational institutions (Asmani, 2015). It clearly prohibits misleading or half-truthful claims about affiliation, recognition, accreditation, or even job security (Syahnan, 2019). However, we find an unscrupulous educational institution blatantly violating the guidelines of the possible institute in Gondia that the students complained about was one of those institutions.

In cases like this, the Consumer Protection Law is here to rescue students who are victims of the advertisement (Christianto, 2017). Under the Consumer Protection Act, false or misleading advertising constitutes unfair trade practices and victims can seek damages

<b>How to cite:</b>	Rida Jelita (2024) Propriety Analysis by Excluding Education from the Definition of 'Service' in the Consumer Protection Law at Buddhist Colleges, (06) 06, <a href="https://doi.org/10.36418/syntax-idea.v3i6.1227">https://doi.org/10.36418/syntax-idea.v3i6.1227</a>
<b>E-ISSN:</b>	<a href="https://doi.org/10.36418/syntax-idea.v3i6.1227">2684-883X</a>
<b>Published by:</b>	<a href="https://doi.org/10.36418/syntax-idea.v3i6.1227">Ridwan Institute</a>

through court or arbitration. There is also a provision for all affected students to file one general complaint or class action lawsuit.

In *Buddhist Vs Bhupesh Khurana and Ors Mission College and Hospital*, 11 students had filed a complaint with the National Consumer Dispute Settlement Commission in 1994, stating that they had lost two academic years because the college was not affiliated with Magadh University or recognized by Magadh University. Dental Council of India, as claimed by him.

While the commission directed the refund of fees along with interest and Rs 20,000 as compensation, the Supreme Court granted an additional Rs 1 lakh as compensation and Rs 1 lakh as fees for each student. In *Tesol India Vs Shri Govind Singh Patwal*, six students recovered the fees they had paid by approaching the consumer court, along with compensation varying from Rs 7,500 to Rs 25,000. Here the accusation is that the institution not only makes false claims about its affiliation, but also promises guaranteed jobs abroad.

So, although the Indian Consumer Court can grant relief, it would be wise to always check the website of the All India Council of Technical Education (Audira, 2018), to find out the correct status (recognition, approval, foreign affiliation, etc.) of the institution. And if you find an advertisement that you think is false or misleading, you can file a complaint with ASCI. If an ad violates a code/guideline, ASCI will revoke or change the ad. However, it does not require advertisers to issue corrective ads.

Based on Law Number 8 of 1999 concerning Consumer Protection, as a service management institution in the field of education, students are consumers who need to be protected so that they get comfort while studying and achieve the goal of holding Higher Education in a country, namely educating the life of the nation. Furthermore, in Article 1 paragraph (2) it is explained that consumers are individuals or groups who use goods and services available to the community, both for the benefit of themselves, their families, other people, and other living beings and not for trading. The increasing awareness of education, especially higher education, has made private universities, especially Buddhist Colleges (STAB), a goal that is expected to produce quality human resources (Sunarso, Sh, & Kn, 2022). Students as consumers must also see what factors can be detrimental if they choose the STAB as their place of study. Understanding the decision-making of education students is important in order to increase the intelligence and morals of the nation's successors. A nation that is a leader and role model is a nation that provides opportunities for its citizens to get a good education, because the beginning of the nation's progress is seen from the quality of its education (Hadjon, 2011). In order to achieve the goals of National Education as stated in Law Number 20 of 2003 concerning the National Education System, the implementation of national education that applies in Indonesia is organized through State Universities (PTN), Private Universities (PTS), Official Universities (PTK), and Buddhist Colleges (STAB). STAB as one of the national education instruments is expected to be a center for the implementation and development of higher education as well as the maintenance, coaching and development of science, technology and arts that can improve the quality of life in society, nation and state.

To support quality services and the quality of education, the government has implemented educational standards that must be met (Susanti, 2017). Government Regulation of the Republic of Indonesia Number 32 of 2013 concerning Amendments to Government Regulation No. 19 of 2005 concerning National Education Standards is to align the National Education Standards with the dynamics of community, local, national, and global development in order to realize the functions and objectives of national education. Graduate Competency Standards, Content Standards, Process Standards, and Assessment Standards, which together build an educational curriculum, are important and urgent to be improved. And the consolidation of the National Education Standards and the regulation of the curriculum as a whole is very important and urgent to achieve the goal of improving the quality and competitiveness of Indonesian human resources as a result of education which has become a national commitment.

It is very important for a high school, because the success of a high school attracts students depends on what factors are the driving or making students want to choose a religious college (Tumbel, 2020). The competition between Religious Colleges is currently very competitive, especially Buddhist Colleges in Indonesia there are 12. So that educational institutions to continue to pay attention to the quality of education and institutions so that they can excel in the competition. The success of the Buddhist College is determined by the quality of the service provided so that it can be identified through customer satisfaction, which in this case is referred to as students. To achieve a high level of satisfaction, it is necessary to have an understanding of what consumers want from the Buddhist College, so that they can build a commitment within the higher education institution to meet the needs of students as consumers. So far, the academic field of STA has applied many concepts that prioritize student satisfaction as consumers with the best service with several service areas which include institutional management, cooperation with domestic and foreign high schools, study program curriculum, learning process, workforce (lecturers, employees, facilities and infrastructure, students and information systems). However, it is undeniable that there is always a shortage in the service so that it causes a sense of dissatisfaction from students as consumers or it can also be said that it is a difference between expectations and a reality received by students at the high school. Therefore, the quality of service must start from the needs of consumers and end in the consumer's perception of the quality of the service provided, then it can be considered satisfactory or vice versa. If the service cannot meet the expectations and needs of students, it can be concluded that the service provided by STAB cannot satisfy students or consumers of higher education. Based on the above problems, the researcher raised the title Regarding Propriety Analysis by Excluding Education from the Definition of 'Service' in the Consumer Protection Law at Buddhist Colleges (STAB).

## **RESEARCH METHODS**

This research uses normative legal methods. Normative legal research is also called doctrinal legal research (Diantha & Sh, 2016). In this type of legal research, law is often conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered

appropriate (Rifa'i, 2023). Therefore, as a source of data, it is only secondary data, which consists of primary legal materials, secondary legal materials, or tertiary data (Ananda & Amiruddin, 2019)

## **RESULT AND DISCUSSION**

Education is important in order to increase the intelligence and morals of the nation's successors (Abidin, 2021). A nation that is a leader and an example is a nation that provides opportunities for its citizens to get a good education, because the beginning of the nation's progress is seen from the quality of its education. To be able to achieve the goals of National Education as stated in Law Number 20 of 2003 concerning the National Education System, the implementation of national education that applies in Indonesia is held through State Universities (PTN), Private Universities (PTS), Official Universities (PTK), and Religious Colleges (STA). STA as one of the national educational instruments is expected to become a center for the implementation and development of higher education as well as the maintenance, coaching and development of science, technology and arts that can improve the quality of life in society, nation and state.

To support quality services and the quality of education, the government has implemented educational standards that must be met (Ismail, 2018). Government Regulation of the Republic of Indonesia Number 32 of 2013 concerning Amendments to Government Regulation No. 19 of 2005 concerning National Education Standards is to align the National Education Standards with the dynamics of community, local, national, and global development in order to realize the functions and objectives of national education. Graduate Competency Standards, Content Standards, Process Standards, and Assessment Standards, which together build an educational curriculum, are important and urgent to be perfected (Mulyasa, 2021). And the consolidation of the National Education Standards and the regulation of the curriculum as a whole is very important and urgent to achieve the goal of improving the quality and competitiveness of Indonesian human resources as a result of education which has become a national commitment.

The legal substance in Indonesia regarding consumer protection is accommodated in Law (UU) Number 8 of 1999 which regulates consumer protection both preventively and repressively. In addition to Law No. 8 of 1999 concerning Consumer Protection, the Law on the Financial Services Authority (OJK) also regulates consumers, but with a different definition. In the Consumer Protection Law, consumers include every person (individual) who uses goods and/or services, while in the OJK Law, consumers are individuals and legal entities, but only consist of consumers to a certain extent, namely in financial service institutions. However, the legal structure and legal culture in Indonesia regarding consumer protection still do not support effective consumer protection.

According to C.S.T. Legal protection is a variety of legal remedies that must be provided by law enforcement officials to provide a sense of security, both mentally and physically from disturbances and various threats from any party (1989:102). Meanwhile, according to Hadjon, (2011) that legal protection is an action to protect or provide help to legal subjects, using legal tools (2011:10). According to Satjipto Rahardjo, legal protection is

to provide protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights provided by the law (2000:54). Legal protection is a universal concept of the state of law. Basically, legal protection consists of two forms, namely preventive legal protection and repressive legal protection, namely: Preventive Legal Protection which is basically preventive is interpreted as prevention. Preventive legal protection is very meaningful for government actions based on freedom of action because with preventive legal protection, the government is encouraged to be cautious in making decisions. The form of preventive legal protection is contained in laws and regulations to prevent the occurrence of a violation and to provide limits in carrying out obligations. Repressive Legal Protection serves to resolve disputes that have arisen due to violations. This protection is the final protection in the form of sanctions for violations that have been committed.

In Indonesia, there is Law Number 8 of 1999 concerning Consumer Protection which provides protection, every user of goods and/or services available in the community, for the benefit of oneself, family, other people and other living beings and not to be traded. Consumer protection areas are relatively new in most developing countries such as Malaysia, Indonesia, and African countries.

In Malaysia there is the "Malaysian Consumer Protection Act 1999 came into force on 15 November 1999 with the main purpose of providing greater protection for consumers and its provisions cover areas that are not regulated by other applicable laws, the rights of consumers granted cannot be taken away from them. This is regardless of the conditions in any agreement they have signed and the consumer also has the right to all products and services of daily basic necessities such as food, clothing, health, education and home."

In Europe there are "EU legislation in the field of consumer protection that is only connected to specific issues, such as the provision of pre-contractual information or the right of withdrawal from the contract, the circumstances, where it is made (remotely or at the consumer's home), or the nature of the transaction justifying it." Creating consumer protection and its boundaries is not an easy task, but we can understand consumer protection broadly as "a broad accumulation of laws, rules and practices that ultimately relate to the protection of citizens in their economic role as consumers." focuses on the role played by members of society as consumers of goods and services.<sup>8</sup> Another theory "Consumer protection is designed to protect the rights of individuals in pursuit of treatment and dignified attention. Consumer rights are part of the various social rights that individuals are entitled to claim in modern society. Such rights, often aspirational, have been enshrined in national constitutions."

Law No. 8 of 1999 concerning Consumer Protection has actually regulated consumer rights such as the right to be heard and complaints, the right to get clear, correct and honest information, the right to be served correctly, and so on (Dalimunthe, 2021). However, there are still many business actors who often neglect to fulfill the rights as stipulated in the Consumer Protection Law. Therefore, there are often disputes between consumers and consumer protection in resolving the dispute, consumers can contact a consumer representative agency or a dispute resolution institution. Consumer representative institutions

are authorized to receive complaints and facilitate peace between the two parties, such as the BPKN (National Consumer Protection Agency), the Directorate of Consumer Empowerment, LPKSM such as YLKI, banking mediation institutions, the Indonesian Insurance Mediation Agency and the OJK. To channel complaints, BPKN provides a call center with the number 153, so that consumers can contact BPKN at any time when facing problems. Meanwhile, the institutions authorized to resolve disputes are the Consumer Dispute Settlement Agency (BPSK) and the District Court or Arbitration. In addition to these efforts, consumers can also report to the police when a criminal act occurs. However, the attitude of consumers in Indonesia unfortunately tends to be "nrimo" (resigned) if their rights as consumers are violated. This is proven by research in 1992 and 2001 organized by FH UI and the Ministry of Trade, that Indonesian consumers are consumers who are resigned and do not want to take legal action. This attitude of resignation is caused by, among others, because our society does not like conflict, access to justice is convoluted and the process of seeking justice is expensive, so that consumers tend to be silent when their rights are violated by business actors. Therefore, the public is urged to be critical and strive for their rights that have been violated. In addition, it is hoped that the process of seeking justice can be accessed by the public more easily and cheaply, because in reality, BPSK, which is supposed to solve cases in a short time, can take up to three or four years. Thus, consumers can more easily obtain justice and can encourage business actors to increase the fulfillment of consumer rights.

The public, including students, do not know much about the National Consumer Protection Agency (BPKN). In fact, currently there are many cases that harm consumers, including students. Currently, there are still many consumers who are silent even though they feel disadvantaged. Some even do not know where to complain to solve it, BPKN is an institution that facilitates producers and consumers to establish safe buying and selling transactions. BPKN is not an institution that resolves disputes, but facilitates business actors not to do this again. According to him, complaints to BPKN are free of charge, only bring the necessary files. Complaints can be made through the call center, Whatsapp or email that has been provided. This is because socialization and education about consumer protection causes the level of awareness and understanding of consumers and business actors in the region towards Law No. 8 of 1999 concerning Consumer Protection (UUPK) is still relatively low. It is hoped that students will build a network of information about their rights and obligations as consumers.

## **CONCLUSION**

From the research that has been carried out and has been carried out, resulting in a discussion, it can be concluded that: Based on Law No. 8 of 1999 concerning consumer protection, students are consumers who need to be protected so that they can get comfort while studying and achieve the goal of organizing the Buddhist College of Religion (STAB), which is to educate the nation's life. It is clear that students and private universities have a legal relationship that cannot be separated because the rights and obligations of both parties have been listed in the Consumer Protection Law as consumers and business actors. So far in the academic field, private universities have applied many concepts of prioritizing student

satisfaction as customers or consumers with the best service with several areas of service which include institutional management, cooperation with domestic and foreign STBATs, study program curriculum, learning process, workforce (lecturers, employees), facilities and infrastructure, students and information systems. However, it is undeniable that there are always shortcomings in the service that cause dissatisfaction from students as consumers. Therefore, the quality of STAB services must start from consumer needs and end in consumer perception of the quality of services provided, then it can be considered satisfactory or vice versa, if the service cannot meet the expectations and needs of students, it can be concluded that the services provided by the Buddhist college cannot satisfy its students or consumers of higher education at the BAT. Students as consumers have the right to get legal protection if they receive illegal actions from the educational institution as business actors. If there is a dispute between students and private universities, the settlement can be done at the Consumer Dispute Resolution Agency (BPSK). As stipulated in Law No. 8 of 1999 concerning Consumer Protection, the main task is to resolve consumer disputes outside the general court institution and this institution is one of the consumer judicial institutions domiciled in every second-level region in districts and cities throughout the Republic of Indonesia.

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