

**CONSUMER PROTECTION IN CIVIL LAW****Gagah Satria, Eva Monalisa, Kurnaen, Yougi yulianto, Adha Syuhada**

Universitas Bung Karno, Indonesia

Email: gagahsatria22@gmail.com, evamonalisa.eva@gmail.com, kurnaen012@gmail.com, yougiyulianto9@gmail.com, legaadha@gmail.com

**Abstract**

Consumer protection is any effort that ensures legal certainty to provide protection to consumers. Consumer Protection in Indonesian Legislation has progressed, especially after the enactment of Law number 8 of 1999 concerning Consumer Protection. In this case, legal protection for consumers can be explained, namely policies produced by the state as a form of responsibility towards its people to implement and protect their rights from actions that can cause harm, whether physical, mental or financial, from buying and selling transactions. which is done in the form of fulfilling their needs and this is guaranteed by the state as stated in Article 28 of the 1945 Constitution, which in general contains a guarantee by the state to protect the rights of its citizens, which includes stating that citizens have the right to defend their lives, as well as guaranteeing the protection of fair legal certainty. . In this research, the author is interested in raising the issue of how is legal protection for consumers from a civil perspective? Therefore, Law Number 8 of 1999 concerning Consumer Protection is used as a guideline in protecting consumer interests. Apart from that, the legal aspects that play a role in protecting consumers are private law aspects and public law aspects. So Indonesia in its Legislation has clearly and firmly regulated Consumer Protection.

**Keywords:** Protection, Consumer, Civil Law**INTRODUCTION**

Consumer protection is all efforts that ensure legal certainty to provide protection to consumers. Consumers are every person who uses goods or services available in society, either for the benefit of themselves, their families, other people, or other living beings and not to be traded (Putri, 2021; Tampubolon, 2016). Usually, the position of consumers is in a weak position in trade activity and the main factor that is a weakness of consumers is the low level of consumer awareness of their rights and also when compared to the position of business actors (Kirana, Abbas, & Rustan, 2021)

The spread of business actors' dominance over consumer users is due to the control of products that are completely in the hands of the manufacturer. This uncondusive situation is an important factor in the enactment of Law Number 8 of 1999 concerning Consumer Protection (UUPK), and this is the government's effort to provide protection guarantees to consumers.

Long before the enactment of the UUPK, juridically formally the principle of product liability has actually been regulated in several articles in the Civil Code, including Articles

<b>How to cite:</b>	Gagah Satria, Eva Monalisa, Kurnaen, Yougi yulianto, Adha Syuhada (2024) Consumer Protection in Civil Law, (06) 07.
<b>E-ISSN:</b>	<a href="#">2684-883X</a>
<b>Published by:</b>	<a href="#">Ridwan Institute</a>

1322, 1473, 1474, 1491, 1504 to 1511. Although with a note, the scope of the material is not as extensive as the provisions regulated in the UUPK. In the Civil Code in general, if there is a person who commits an unlawful act (PMH), that person is required to provide compensation. Article 1365 of the Civil Code requires five conditions for an act to be included in the qualification of PMH, namely: (1) the existence of an act, (2) the act is unlawful, (3) the existence of a loss, (4) the existence of a fault, and (5) the existence of a causal relationship (causality) between the unlawful act and the consequences it causes (Putra, Budiarta, & Ujianti, 2023).

Legal protection itself, according to Prodjodikoro, 1984; Sembiring, (2023) can be defined as an effort to protect the legal subject, about what he can do to maintain or protect his interests and rights only as a legal subject related to security and comfort. In this case, legal protection for consumers can be explained, namely policies produced by the state as a form of responsibility to its people to exercise and protect their rights from acts that can cause losses whether physically, mentally or financially from the purchase and sale transactions carried out in the form of fulfilling their needs and this is guaranteed by the state as stated in the 1945 Constitution article 28 which contains the contents of the The outline is a state guarantee to protect the rights of its citizens, which includes mentioning that citizens have the right to defend their lives, as well as guarantees of protection of fair legal certainty. The article explains that the state must participate and be responsible for guaranteeing and implementing legal protection for its citizens so that citizens in the country can live in an orderly manner and not harm each other. In this study, the author is interested in raising the problem of how to protect the law for consumers from a civil perspective?

## **RESEARCH METHOD**

Research on Consumer Protection in Civil Law is normative legal research (Negara, 2023). As for the type of approach, it uses a legislative approach. The writing of this paper uses data sources, namely literature research, which is research using existing books or literature, especially related to the problems raised related to consumer protection.

## **RESULT AND DISCUSSION**

### **Consumer Law Resources**

In addition to the Consumer Protection Law, the Consumer Law is "found" in various previous laws and regulations, it has been described that the Consumer Protection Law is in force one year from its enactment (April 20, 2000). (Christiani, 2016) Thus, and supplemented by the provisions of Article 64 (Transitional Provisions) of this Law, means that in order to "defend" the interests of Consumers, all applicable general laws and regulations must still be studied. However, the general laws and regulations that regulate also contain various rules regarding consumer relationships and problems. Even though the Laws and Regulations are not specifically issued for Consumers or Consumer Protection, at least they are also the source of the Consumer Law and/or Consumer Protection Law. According to (Prasetya & Rudy, 2020) some of them will be described below:

### **Policy Law**

Consumer Law, especially the Consumer Protection Law, gets its legal basis in the 1945 Constitution (1945 Constitution), Preamble, 4th Paragraph. Generally, until now people rely

on the word "the whole nation" so that it is taken as a principle about the unity of the entire Indonesian nation (Principle of Unity of Nations). Whether he is a man or a woman, a rich person or a poor person, a city person or a villager, a native person or a descendant and an entrepreneur/business actor or a consumer. Other legal basis is contained in the provisions contained in Article 27 paragraph (2) of the 1945 Constitution (1945 Constitution).

### **Review of Consumer Law in Civil Law**

By Civil Law, Civil Law is meant in a broad sense, including Civil Law, Commercial Law and civil rules contained in various other laws and regulations. However, in addition, in various other laws and regulations, it seems that there are also legal rules that affect and/or are included in the field of Civil Law. Among other things, about who is intended to be the subject of Law in a Consumer Legal relationship, the rights and obligations of each, as well as procedures for resolving problems that occur in disputes between Consumers and goods and/or service providers regulated in the relevant Laws and Regulations. So, if summarized as a whole, it can be seen that the legal rules that govern the relationship and legal wrongs between business actors providing goods and/or services and their respective consumers are seen and contained in the Civil Code, (especially in the second, third and fourth books) of the Criminal Code (the first and second books), various other laws and regulations that contain civil legal rules on legal subjects, legal relationship and problems between certain providers of goods or services and consumers (Naibaho, Simangungsong, & Nababan, 2019).

### **Consumer Protection Concept in Indonesia**

Indonesia with hundreds of millions of consumers is a very attractive market for producers. Competition is getting higher without the community being able to exercise effective control. This situation has become very conducive to the birth of pressure on consumer rights. Consumer protection in Indonesia began with the birth of the Indonesian Consumer Institute in May 1973, an institution that aims to protect consumers, maintain consumer dignity and assist the government. This shows that public awareness to protect consumer rights has emerged. This institution then carries out its function as a locomotive that moves the awareness of consumers and business actors.

On April 20, 1999, Indonesia finally had the Consumer Protection Law (UUPK) as the basis for the implementation of consumer protection laws in Indonesia. This law is expected to be a tool and reference in resolving cases that occur between consumers and business actors. This law is expected to encourage a healthy business climate, as well as the birth of resilient companies in the face of competition through the provision of quality goods and services (Kusumadewi & Sharon, 2022).

Compared to the time before the UUPK, our consumers today legally have received an umbrella in the form of laws in the UUPK have special characteristics compared to other regulations and provisions that regulate the same thing. The UUPK is more nuanced with a consumerism wise attitude without ignoring the rights of business actors. Consumers are given the right and free opportunity to defend their interests. This may be reactive to the phenomenon of the business world dominated by business actors. This philosophical basis is

what juridically places the position of the UUPK to be firmer and clearer in its allocation (Nur & Prabowo, 2011).

### **The Role of Law in Consumer Protection of Development**

Economic development and development in the field of industry and national trade have resulted in a variety of goods and services that can be consumed. Coupled with globalization and free trade supported by advances in telecommunication technology, it will expand the space for the flow of goods and services transactions.<sup>1</sup> Online buying and selling activities are one of the activities that are often carried out by the community as a result of the development of globalization flows. People tend to make online transactions because they are considered practical and can be done anywhere. In making purchases through online transactions, there must be advantages and disadvantages both from the business actors and buyers. However, making online transactions also has a negative impact on consumers because in ordering goods to be purchased, consumers do not meet directly with business actors, allowing fraud to occur (Khotimah & Chairunnisa, 2016). In Indonesia, there is no specific law that regulates online transactions. Law Number 11 of 2008 concerning Information and Electronic Transactions cannot be used as a guideline in handling cases in online transactions, while according to Law Number 8 of 1999 concerning Consumer Protection, articles that can be used as guidelines related to fraud cases experienced by consumers in online transactions are article 8 paragraph 1 letters d, e, and f and article 16 letters a and b (Setiadi, 2017).

The role of law in consumer protection according to (Anwar, Kurdi, & Abrar, 2023) can be seen from two aspects, namely (Prasetya & Rudy, 2020) :

- a. The private legal aspect is a legal aspect related to the rights and obligations of consumers. According to article 4 of Law Number 8 of 1999 concerning Consumer Protection, consumer rights that must be protected and respected are the right to security and safety, the right to information, the right to vote, the right to be heard, and the right to the environment.
- b. The public law aspect is a legal aspect that can be used by the State, the government agency that has a role and victory to be used by parties for subjective interests. Included in the aspects of public law are:
  - 1) The Ministry of Trade is a minister whose scope of duties and responsibilities includes trade.
  - 2) The Directorate General of Standardization is in charge of formulating and implementing policies and technical standardization in the field of standardization and consumer protection.
  - 3) The Consumer Dispute Settlement Agency (BPSK) is a body tasked with handling and resolving disputes between business actors and consumers

### **Consumer Rights and Obligations**

Rights and obligations in general are closely related to the scope of the agreement, especially the agreement. So that the issue of rights and obligations in consumer protection has a relevance to civil issues, which in Indonesia are generally regulated in the Civil Code

(KUH Perapi). According to the general provisions of the Civil Code, an agreement does not have to be made in writing, except for agreements that must be made in writing. The provisions on the terms of the validity of the agreement are regulated in Article 1320 and Article 1338 of the Civil Code.

United Nations Resolution No.39/248 of 1985 on Guidelines for Consumer Protection, also formulates various consumer interests that need to be protected (Nur & Prabowo, 2011), which includes :

- a. protection of consumers from hazards to their health and safety;
- b. promotion and protection of consumer socio-economic interests;
- c. the availability of information that is relevant for consumers to provide them with the ability to make the right choice according to their personal wishes and needs;
- d. consumer education;
- e. the availability of effective compensation efforts;
- f. freedom to form consumer organizations or other relevant organizations and provide opportunities for such organizations to voice their opinions in decision-making processes concerning their interests (UN Resolution No. 39/248, 1985).

It is clear that consumers in the UUPK are also the main component in a supply and demand mechanism for a product. However, consumers should not be positioned as passive parties, but must be active in responding to products circulating in the market that are used by consumers.

## CONCLUSION

Consumer Protection in Laws and Regulations in Indonesia has progressed, especially after the birth of Law number 8 of 1999 concerning Consumer Protection, where regarding Consumer Protection in Indonesia, in this case the constitution contained in Article 27 paragraph (2) of the 1945 Constitution (1945 Constitution). Not only the 1945 Constitution (1945 Constitution) and the Consumer Protection Law, but the Civil Code (KUHPer) and the Commercial Code also regulate Consumer Protection. Therefore, Law Number 8 of 1999 concerning Consumer Protection is used as a guideline in protecting consumer interests. In addition, the legal aspects that play a role in protecting consumers are the aspect of private law and the aspect of public law. So Indonesia in its laws and regulations has clearly and firmly regulated Consumer Protection.

## BIBLIOGRAPHY

- Anwar, Syaiful, Kurdi, Moh, & Abrar, Unsul. (2023). Pelatihan Dan Pemberdayaan Perempuan Dalam Meningkatkan Kesejahteraan Ekonomi Desa Ellak Daya Melalui Pemanfaatan Buah Kelapa. *Jurnal Abdimas Sosek (Jurnal Pengabdian Dan Pemberdayaan Masyarakat Sosial Ekonomi)*, 3(3), 14–17.
- Christiani, Theresia Anita. (2016). Normative and empirical research methods: Their usefulness and relevance in the study of law as an object. *Procedia-Social and Behavioral Sciences*, 219, 201–207.
- Khotimah, Cindy Aulia, & Chairunnisa, Jeumpa Crisan. (2016). Perlindungan hukum bagi konsumen dalam transaksi jual beli-online (e-commerce). *Business Law Review*, 1, 14–

20.

- Kirana, A. Rahmi Ainun, Abbas, Ilham, & Rustan, Muhammad. (2021). Analisis Perlindungan Hukum Terhadap Konsumen Terkait Penjualan Barang Bermerek Palsu Melalui Transaksi Online Ditinjau Berdasarkan Hukum Perdata. *Qawanin Jurnal Ilmu Hukum*, 2(1).
- Kusumadewi, Yessy, & Sharon, Grace. (2022). *Hukum Perlindungan Konsumen*. Lembaga Fatimah Azzahrah.
- Naibaho, Khepin, Simangungsong, Marthin, & Nababan, Roida. (2019). Perlindungan Hukum Bagi Konsumen Atas Barang Rusak Dalam Perjanjian Jual Beli Barang Elektronik. *Jurnal Hukum Patik*, 8(2), 125–136.
- Negara, Tunggul Ansari Setia. (2023). Normative legal research in Indonesia: Its originis and approaches. *Audito Comparative Law Journal (ACLJ)*, 4(1), 1–9.
- Nur, Yudha Hadian, & Prabowo, Dwi Wahyuniarti. (2011). Penerapan Prinsip Tanggung Jawab Mutlak (Strict Liability) Dalam Rangka Perlindungan Konsumen. *Buletin Ilmiah Litbang Perdagangan*, 5(2), 177–195.
- Prasetya, Agus Fahmi, & Rudy, I. Dewa Gede. (2020). Perlindungan Konsumen Dalam Peraturan Perundang-Undangan Di Indonesia. *Kertha Semaya*, 3, 1–5.
- Prodjodikoro, Wirjono. (1984). Hukum acara perdata Indonesia. (*No Title*).
- Putra, Chandra Adi Gunawan, Budiarta, I. Nyoman Putu, & Ujianti, Ni Made Puspasutari. (2023). Perlindungan Hukum Terhadap Konsumen dalam Perspektif Kesadaran Hukum Masyarakat. *Jurnal Konstruksi Hukum*, 4(1), 13–19.
- Putri, Elfirda Ade. (2021). Kewenangan MUI Pasca Terbitnya PP No. 31 Tahun 2019 Tentang Peraturan Pelaksanaan UU No. 33 Tahun 2014 Tentang Jaminan Produk Halal. *Krtha Bhayangkara*, 15(2).
- Sembiring, Samuel. (2023). Perlindungan Hukum Konsumen Sebagai Korban Produk Berbahaya Dalam Perspektif Hukum Perdata. *Rio Law Jurnal*, 4(1).
- Setiadi, Tri. (2017). Perlindungan Hukum Terhadap Konsumen Dalam Pelanggaran Ketentuan Label Pangan Yang Dilakukan Pelaku Usaha Berdasarkan Undang-Undang No. 8 Tahun 1999 Tentang Perlindungan Konsumen. *Yustitia*, 3(1), 62–78.
- Tampubolon, Wahyu Simon. (2016). Upaya Perlindungan Hukum Bagi Konsumen Ditinjau Dari Undang Undang Perlindungan Konsumen. *Jurnal Ilmiah Advokasi*, 4(1), 53–61.

---

**Copyright holder:**

Gagah Satria, Eva Monalisa, Kurnaen, Yougi yulianto, Adha Syuhada (2024)

**First publication right:**

[Syntax Idea](#)

**This article is licensed under:**

