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INSTITUTIONAL ROLES AND MECHANISMS IN UPHOLDING LEGAL PROTECTION UNDER CONSUMER PROTECTION LAW IN THE ERA OF GLOBALIZATION

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ABSTRACT

Consumer protection law is essential in safeguarding rights against fraud and unfair practices, relying on both private institutions and governmental enforcement. This study aims to analyze the legal frameworks of consumer protection in Indonesia. It also examines the roles of institutions in the legal enforcement of consumer protection, particularly their function in maintaining the balance of relations between consumers and producers in the context of globalization and extensive online marketing. The methodology employed is normative legal research, which examines Indonesia's Consumer Protection Law (Law Number 8 of 1999) through the lens of key concepts such as consumer rights, the institutional roles in enforcing these rights, and ensuring fair business practices. The findings underscore the importance of various consumer protection institutions, such as National Consumer Protection Agency (BPKN) Non-Governmental Consumer Protection Institution (LPKSM) Consumer Dispute Resolution Agency (BPSK), in Indonesia, which serve to educate, supervise, and assist consumers in resolving disputes with businesses. This study also identifies the challenges in implementing consumer protection law, particularly concerning the broad range of involved institutions, as well as the need for heightened consumer awareness and greater accountability from business actors.

1. Introduction

The era of globalization has brought major changes in various aspects of life, including the trade and consumer protection sectors. With the increasingly open global market, the flow of goods and services across national borders has become increasingly rapid and complex. This condition provides a huge opportunity for consumers to access various products from all over the world more easily and quickly. In this context, consumer protection is a very crucial and urgent issue to be addressed. Consumer protection laws need to continue to develop and adapt to face the ever-changing dynamics of globalization. Not only does it cover aspects of regulation and supervision, but it also includes consumer education, institutional

strengthening, and international cooperation. Consumer protection in the era of globalization is not only the responsibility of the government, but also involves the active role of various stakeholders, including non-governmental organizations, business actors, and society as a whole. Synergy between these various parties is needed to create a fair and safe trading environment for consumers.

The development of information and communication technology has changed the way consumers interact with the market. E-commerce and digital platforms have become the main channels through which consumers can make transactions. This situation adds a new layer of complexity to consumer protection. Consumers are faced with new challenges such as online fraud, privacy violations, and misuse of personal data. Consumer protection laws must be able to answer these challenges with an innovative and adaptive approach. By understanding this, it is very clear that consumer protection must be seen as a key element in maintaining fairness and balance in the global market. In the context of international trade, the existence of strong and effective regulations is very important to protect consumer rights and ensure that products in circulation meet established safety and quality standards. They can understand their rights and know the steps to take if they feel disadvantaged. Therefore, comprehensive and continuous education programs are needed to increase consumer awareness and knowledge.

Previous studies have examined various aspects of consumer protection law, such as data protection, consumer dispute resolution, and product liability. However, to the best of our knowledge, there is a research gap concerning the institutional roles in consumer protection law in Indonesia. While some research discusses legal reforms and mechanisms for consumer protection, few have focused on the role of institutions in enforcing these laws. Institutional structures and their impact on enforcement remain underexplored. The significance of consumer dispute resolution agencies and their roles in safeguarding consumer rights is largely overlooked. Furthermore, although scholars highlight various consumer protection issues, they do not delve deeply into the institutional frameworks that support or hinder effective legal enforcement in Indonesia. This gap suggests the need for a comprehensive investigation into how institutional structures, agencies and their roles contribute to or impede the enforcement of consumer protection laws in the country.

Institutions responsible for supervision and law enforcement must have adequate capacity, both in terms of human resources and technology. They must be able to respond quickly and effectively to consumer complaints and carry out proactive supervision of products circulating in the market. International cooperation is also an important component, given the large number of products that cross national borders. Countries need to work together in harmonizing standards, exchanging information, and enforcing laws across borders to address global challenges.

The purpose of this study is to examine the often-overlooked role of institutions in the enforcement of consumer protection law in Indonesia, particularly within the context of globalization and the rapid growth of online marketing. By focusing on the institutional framework, this research aims to assess how various public and private entities contribute to maintaining a balance between consumers and producers in the digital era. While existing studies have primarily concentrated on the legal aspects of consumer protection, this study highlights the practical

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functions of institutions in educating consumers, supervising business practices, and resolving disputes. The novelty of this study lies in its exploration of the institutional mechanisms that underpin the effectiveness of consumer protection laws, specifically within the framework of Law Number 8 of 1999, and its focus on how these institutions address emerging challenges such as digital consumer rights, monopolistic practices, and the enforcement of fair business practices in an increasingly globalized marketplace.

2. Research Methods

This study uses a normative legal research method to analyze laws, doctrines, jurisprudence, and international conventions relevant to consumer protection law. This method aims to determine the applicable legal rules, as well as assess the appropriateness, fairness, and effectiveness of these rules. To uncover the law related to consumer protection, this study adopts several approaches. The approach in this study is through legislation (statute approach), which includes analysis of national and international legal rules such as the Law Number 11 of 2008 on Electronic Information and Transactions, and Law Number 8 of 1999 concerning Consumer Protection. This study utilizes a secondary data collection method consisting of three categories of legal materials: primary and secondary. Primary legal materials include binding national and international laws and regulations. Secondary legal materials support the understanding of primary materials and include writings by legal experts, such as books and scientific journals. Descriptive analytical-qualitative data analysis is used in this study, involving systematic and logical interpretation of data to reach conclusions. The descriptive analytical approach emphasizes the description and analysis of data based on existing facts, allowing for in-depth investigation and a comprehensive understanding of the phenomena studied.

3. Research result

3.1. Legal Frameworks of Consumer Protection in Indonesia

Consumer protection is not only important for individual welfare but also affects the economy as a whole. Consumers feel safe and protected, they will be more confident in making transactions, which in turn can drive economic growth. It is important for every country to have a strong and clear legal framework in protecting consumer rights, which is an effort to protect consumers, as realized through Law Number 8 of 1999 concerning Consumer Protection. This law aims to provide legal certainty for consumers, increase consumer awareness and ability to protect themselves, and encourage business actors to be responsible in running their businesses. Every business actor has an obligation to listen to consumer opinions and complaints, and respond to them appropriately and responsively. They must provide a quick and effective response to consumer complaints, and strive to resolve disputes peacefully and fairly. This is important to maintain good relations between business actors and consumers, as well as to build a good reputation for the company. Consumer protection is based on a number of principles and objectives that guide its implementation in everyday life. These principles and objectives are the main foundation in establishing a legal framework that regulates the rights and obligations in interactions between consumers and business actors. These principles provide guidelines for the formulation of policies and the implementation of effective and efficient consumer protection. Article 2 of

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the Consumer Protection Law emphasizes that consumer protection is implemented as a joint effort based on five principles that are in line with the direction of national development. Through a solid framework based on these principles and objectives, it is hoped that consumer protection can be implemented effectively and efficiently in all economic sectors. Thus, consumers will feel safer and more protected in conducting transactions for the sale and purchase of goods and services, while business actors are also balanced with clear obligations in meeting the standards that have been set to protect consumer interests.

Business actors also benefit from the existence of consumers who have good knowledge about the products or services they buy. Educated consumers tend to make smarter decisions and choose products or services that suit their needs and preferences. This can increase efficiency in resource allocation, reduce the risk of returns, and increase customer satisfaction. Thus, every individual, regardless of their background or social status, has equal access to legal protection in the context of consumer transactions.

Consumers need to understand their rights and dare to fight for them, while business actors must comply with their obligations honestly and responsibly. Thus, an environment of mutual respect and support is created, where conflicts can be avoided or resolved fairly and peacefully. A balanced balance between the interests of consumers, business actors, and the government, both in terms of material and spiritual. In a material context, this principle refers to efforts to maintain an equal power between consumers, business actors, and the government in the economic sphere. The application of this principle of justice also refers to the principle that every individual, without exception, has the same right to receive fair and proper treatment in every consumer transaction. In the 1970s, the issue of consumer protection in Indonesia began to attract attention, especially with the establishment of the Indonesian Consumers Foundation (*Yayasan Lembaga Konsumen Indonesia* /YLKI) in May 1973.

YLKI has become an important forum for voicing consumer protection ideas through various activities such as education, research, testing, complaints, and media publications. At that time, awareness of consumer rights was widely disseminated to the public. During the New Order, the ratification of Draft Law on Consumer Protection continued to be postponed, due to the lack of support and support from the Government and the House of Representatives. As a result, the legislative process to pass the consumer protection law was protracted and delayed, reflecting the political and policy challenges surrounding the discussion of consumer protection issues in Indonesia. Various control or monopolies over interests that cover the livelihoods of many people by State-Owned Enterprises and Regional-Owned Enterprises have more or less worsened the embodiment of consumer rights in practice.

Indonesia's legal framework for consumer protection, embodied in Law Number 8 of 1999, serves as a critical foundation for safeguarding consumer rights and promoting economic stability. This law has laid out essential principles aimed at enhancing consumer awareness, improving business accountability, and ensuring efficient dispute resolution mechanisms. By promoting a balanced relationship between consumers, businesses, and the government, the law has the potential to foster an environment of mutual respect and fair treatment in consumer

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transactions. As highlighted by previous research, a well-structured consumer protection law not only protects individual welfare but also contributes to economic growth by fostering trust and encouraging responsible business practices. However, the effectiveness of these legal frameworks is contingent upon the institutional structures in place to enforce them. Despite the established legal principles, significant gaps remain in understanding the role of institutions in ensuring the practical implementation of consumer protection laws in Indonesia, such as the enforcement mechanisms, dispute resolutions particularly the role of agencies, and institutional frameworks in consumer protection laws, while it making difficult to address emerging challenges such as digital consumer rights and monopolistic practices.

3.2. Consumer Protection Law in Safeguarding Consumer Rights and Promoting Fair Business Practices

The principles of consumer protection existed in the Consumer Protection Law before Indonesian independence; regulations from the Dutch East Indies era already existed, although most of them are no longer valid. In addition, in the *Burgerlijk Wetboek* (BW) there are provisions that aim to protect consumers, especially those contained in several articles of Book III, chapter V, part II starting from article 1365. The Commercial Code (*Kitab Undang-Undang Hukum Dagang/KUHD*) also regulates protection third parties and passengers/cargo in maritime law, as well as provisions regarding intermediaries, insurance, securities, bankruptcy, and so on. Likewise in the Criminal Code, there are articles that discuss forgery, fraud, unfair competition, and others. Even in customary law, there are basic principles that support consumer protection, such as the strong principle of kinship that encourages people to respect each other.

Before the formation of the Consumer Protection Law, various regulations had existed that aimed to protect consumer interests. Although Consumer Protection Law is the main basis for consumer protection, it cannot be ignored that a number of previous laws have played an important role in this regard. For example, Law Number 10 concerning the Stipulation of Government Regulation in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-Undang/Perpu*) Number 1 of 1961 concerning Goods has become an important foothold in upholding consumer rights. Likewise, Law Number 2 of 1981 concerning Metrology, which has a significant role in ensuring the suitability and safety of goods circulating in the market. In addition, Law Number 30 of 2009 concerning Electricity, which replaces Law Number 15 of 1985 concerning Electricity, and Law Number 36 of 2009 concerning Health, which is an amendment to Law Number 23 of 1992 concerning Health, also have a role in the aspect of consumer protection, especially in terms of product and service safety. Not to be missed, Law Number 18 of 2012 concerning Food has replaced Law Number 7 of 1996 concerning Food, providing a stronger foundation in ensuring the quality and safety of food consumed by the public.

Consumer protection in the context of the environment is not explicitly regulated by the Consumer Protection Law, because this has been handled by Law Number 32 of 2009 concerning Environmental Protection and Management, which replaces Law Number 23 of 1997 concerning the Environment. In this law, there are provisions that stipulate individual responsibilities in maintaining the sustainability

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of environmental functions and in preventing and overcoming environmental pollution and damage. However, the potential for the formation of new laws that specifically cover aspects of consumer protection remains open. Since the approval of the Draft Law on consumer protection by the House of Representatives on March 30, 1999, consumers in Indonesia have had a strong legal basis to protect their rights. The process of ratifying the bill by the government on April 20, 1999 marked an important step in ensuring better protection for consumers.

This legal basis provides confidence to all parties that consumer protection can be carried out effectively and optimistically. Historically, the struggle to realize this law has been proof of the government's seriousness in accommodating the needs and protection of consumers in Indonesia. Not only the bill, but also a number of other legal instruments have been implemented to strengthen consumer protection. Government Regulation of the Republic of Indonesia Number 57 of 2001 concerning the National Consumer Protection Agency is a real example of how the government acts to regulate and supervise consumer protection nationally. In addition, Government Regulation of the Republic of Indonesia Number 58 of 2001 and Number 59 of 2001, which regulate the development, supervision, and non-governmental consumer protection institutions, provide a clear framework for enforcing consumer rights. Presidential Decree of the Republic of Indonesia Number 90 of 2001 is also important in establishing the Consumer Dispute Resolution Agency in several major cities in Indonesia. In Consumer Protection Law, the aspect of the agreement has an important role although it is not absolute. Historically, there was a period where the element of the agreement was considered absolutely necessary before consumers could get legal protection from the disputing parties. Commercial Law, as part of Civil Law, also has a significant role, especially in encouraging freedom of contract and the emergence of various types of new agreements in civil relations.

It is important for consumers to have a good understanding of their rights in order to act critically and independently. This allows consumers to spontaneously realize if there is an unfair action against them, and take further steps to fight for their rights. This means that consumers will not remain silent when they find that their rights have been violated by business actors. The Consumer Protection Law not only regulates the rights and obligations of consumers, but also the rights and obligations of business actors. The rights granted to consumers, as stated in Article 4, are more abundant than the rights granted to business actors, as stipulated in Article 6. Likewise, the obligations of business actors, according to Article 7, are more than the obligations of consumers regulated in Article 5.

Written civil law and unwritten civil law (customary law). The civil aspect in question is everything related to the rights and obligations of consumers that are civil in nature. Several things are considered important in consumer relations and the provision of goods and/or services. By having access to accurate information, consumers can make better decisions in choosing products that suit their needs, and avoid losses that may arise from incorrect use. This underlines the importance of the right to correct information in securing consumer interests in economic transactions.

Criminal law plays an important role even though it does not explicitly mention "consumers". Several articles in the Criminal Code offer legal protection for

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consumers. For example, Article 328 of the Criminal Code threatens with imprisonment for those who sell or hide fake food, drinks, or medicines. Likewise, Articles 383 and 386 of the Criminal Code, which expressly prohibit fraud in the sale of goods, including food, drinks, and medicines. According to Article 1 number (3) of Consumer Protection Law, the term business actor is defined as "Every individual or business entity, whether in the form of a legal entity or not a legal entity that is established and domiciled or carries out activities within the jurisdiction of the Republic of Indonesia, either alone or together through an agreement to carry out business activities in various economic fields. In Article 1 number (3) of Consumer Protection Law, namely every individual or business entity, whether in the form of a legal entity or not a legal entity, which is established and domiciled or carries out activities within the legal territory of the Republic of Indonesia, either alone or together through an agreement to carry out business activities in various economic fields.

Article 6 of Law Number 8 of 1999 concerning Consumer Protection regulates the rights held by business actors. From this Article, it can be seen that business actors have several rights that have been legally mandated. The right to receive payment in accordance with the agreement regarding the conditions and exchange value of goods and/or services traded. The right to receive legal protection from consumer actions that have bad intentions. The right to defend oneself properly in the legal settlement of consumer disputes. The right to rehabilitation of good name if it is legally proven that the consumer's loss was not caused by the goods and/or services traded. Rights regulated in other statutory provisions. The rights of business actors are intended to create business comfort for business actors and as a balance to the rights granted to consumers.

This shows that Indonesia's evolving consumer protection landscape reflects both historical legal frameworks and modern legislative advancements. While Consumer Protection Law serves as the central law safeguarding consumer rights, it is clear that earlier regulations, including provisions from the Dutch East Indies era and various national laws, laid the foundation for these protections. The enactment of the Consumer Protection Law in 1999 marked a significant milestone in strengthening consumer rights and ensuring that business actors are held accountable. These legal developments, coupled with supporting regulations such as the Government Regulation Number 57 of 2001, provide a robust framework for both consumers and businesses to navigate the marketplace. Additionally, the complementary role of criminal law in protecting consumers from fraud and unsafe products further underscores the multifaceted approach Indonesia has taken toward consumer protection.

However, despite the comprehensive legal structure, challenges remain in ensuring that these laws are effectively enforced and adapted to modern consumer needs. While some highlight the role of the Consumer Dispute Settlement Agency (BPSK) in overseeing the enforcement of standardized clauses, ongoing efforts are required to address gaps, particularly in the digital economy and emerging sectors. Consumers must also be empowered with better knowledge of their rights, to navigate a complex and often opaque marketplace. Some argue, continuous legal reforms, including those addressing consumer rights, will be crucial in adapting to the changing dynamics of consumer protection. By strengthening the role of regulatory bodies and ensuring that both consumers and businesses are equally

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educated and informed, Indonesia can foster a more just and balanced marketplace.

3.3. Strengthening Institutional Roles in Legal Enforcement

The implementation of legal responsibility for business actors towards consumers reflects several important things: first, consumers are in an economically disadvantaged position, second, consumers are completely dependent on information provided by business actors; and third, the majority of the population has a low level of education, so that information provided without additional education will be less effective and useful. Breach of contract lawsuits is based on binding contracts between consumers and producers, both written and oral contracts. The development of consumer law in the world began with the consumer protection movement in the 19th century, especially marked by the emergence of the consumer movement. Consumer protection law in European countries has grown rapidly along with economic growth and international trade. Consumer protection in Europe began with the implementation of the General Product Safety Directive (GPSD) which was adopted in 2001. This directive emphasizes that all products marketed in the European Union must be safe to use. Manufacturers and distributors have a responsibility to provide sufficient information about the risks associated with their products and to take corrective action if any hazardous products are found.

Regarding membership, Consumer Protection Law Article 35 states that the National Consumer Protection Agency consists of a chairman who is also member, a deputy chairman who is also a member, and at least 15 (fifteen) people and a maximum of 25 (twenty-five) members representing all elements. Members of the National Consumer Protection Agency consist of government elements; business actors; non-governmental consumer protection institutions; academics; and experts. The Consumer Protection Law states several basic principles that must be upheld by the consumer protection agency (Fista, 2023). These principles include the right to obtain correct, clear, and honest information regarding the condition and guarantee of goods and/or services, the right to obtain security and safety in the use of goods and/or services, and the right to have their opinions and complaints heard regarding the goods and/or services used.

Consumers also have the right to receive consumer guidance and education, which aims to increase their awareness and ability to make smart and wise choices in economic transactions. BPKN also has an obligation to provide legal protection to consumers through strict supervision and strict law enforcement against business actors who violate consumer rights. For example, in cases of violations of consumer rights, BPKN can act as a mediator in resolving disputes between consumers and business actors. If mediation does not achieve the desired results, consumers can take the case to court through the Consumer Dispute Resolution Agency (BPSK) or through courts. Consumer protection, both at the national and international levels as regulated in Consumer Protection Law article 34 paragraph 2. This collaboration aims to strengthen consumer protection and ensure that consumer protection standards applied in Indonesia are in line with international standards.

The Non-Governmental Consumer Protection Institution in Indonesia is an independent entity that plays an important role in protecting consumer rights as

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mandated by Law Number 8 of 1999 concerning Consumer Protection. LPKSM aims to ensure consumer rights to security, comfort, and protection from detrimental actions that may be carried out by business actors. This institution functions as an extension of the community in fighting for consumer rights by providing education, advocacy, and legal assistance when consumer disputes occur. In addition to educating consumers about their rights and obligations, LPKSM also plays an active role in monitoring products and services in the market to ensure business actors' compliance with safety standards and business ethics. When there are indications of violations of consumer rights or detrimental business practices, LPKSM can file a lawsuit or report to the authorities, as well as accompany consumers in the legal process.

The role of LPKSM is very important in creating a healthy market ecosystem, where consumer rights and interests are protected. With LPKSM, consumers have additional support and protection in ensuring that the goods and services they consume comply with proper quality and safety standards. Legal protection for consumers in the dispute resolution process is also regulated in other laws and regulations, such as the Civil Code and the Criminal Code. In the Civil Code, consumers who feel disadvantaged by business actors can file a civil lawsuit to request compensation for the losses they have suffered. Meanwhile, in the Criminal Code, business actors who intentionally carry out actions that harm consumers can be subject to criminal sanctions, such as fraud or product counterfeiting.

Overall, the findings showed that the legal responsibility of business actors toward consumers is rooted in recognition of consumers' vulnerable position in economic transactions. Consumers are often at an informational disadvantage, which makes them highly reliant on the transparency and honesty of business actors. This is compounded by the generally low levels of education within the consumer population, making education and awareness crucial in mitigating exploitation. The role of consumer protection laws, such as those under the Consumer Protection Law and the establishment of bodies like the National Consumer Protection Agency (BPKN), reflects a broader commitment to addressing these issues by ensuring consumers are informed, protected, and able to seek redress. The collaborative efforts between government bodies, non-governmental institutions, and international standards are essential in creating a fair and secure market environment for consumers.

Moreover, the presence of institutions like the Non-Governmental Consumer Protection Institution (LPKSM) further strengthens the consumer protection framework in Indonesia. This institution serves not only as an advocate for consumer rights but also as an active participant in ensuring market compliance with safety and ethical standards. By providing education, legal assistance, and filing lawsuits in cases of violations, LPKSM plays a pivotal role in promoting a healthier market ecosystem. Legal avenues through civil and criminal law also offer consumers the necessary tools to pursue justice when their rights are infringed upon, whether through fraud or unsafe products.

4. Conclusion

Consumer protection in Indonesia is crucial for individual welfare and economic growth, as it fosters consumer confidence and promotes responsible business practices. The legal framework, primarily governed by Law Number 8 of 1999,

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provides a foundation for safeguarding consumer rights, increasing awareness, and encouraging business accountability through principles that guide both consumer and business conduct. However, the effectiveness of this framework depends on robust enforcement mechanisms, institutional roles, and addressing emerging challenges like digital consumer rights and monopolistic practices.

The implementation of legal responsibility for business actors towards consumers highlights the vulnerabilities of consumers, who often face informational disadvantages and lack education, making them highly dependent on business actors for transparency. Institutional roles, such as those of the National Consumer Protection Agency (BPKN) and the Non-Governmental Consumer Protection Institution (LPKSM), are crucial in enforcing consumer protection laws, providing mediation, and ensuring compliance with safety and ethical standards. Through education, advocacy, and legal support, these institutions help protect consumer rights, promote fair business practices, and ensure access to justice, especially in cases involving fraud or unsafe products. Theoretically, the study underscores the importance of strengthening institutional frameworks and legal enforcement to address consumer vulnerabilities in a rapidly evolving market. Practically, it highlights the need for more robust collaboration between government bodies, non-governmental institutions, and legal mechanisms to ensure effective consumer protection, particularly in the face of emerging challenges like digital transactions and globalized business practices.