

THE APPLICATION OF CRIMINAL LAW IN ADDRESSING HAZARDOUS PRODUCTS: A CASE STUDY OF CONSUMER PROTECTION IN INDONESIA

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ABSTRACT

This study aims to analyze the application of criminal law in consumer protection against hazardous products in Indonesia. Dangerous products, such as illegal food and drugs, pose a serious threat to public health, particularly in the digital era where the distribution of products has become increasingly accessible through e-commerce platforms. The primary focus of this research is the effectiveness of implementing Law Number 8 of 1999 on Consumer Protection, Law Number 36 of 2009 on Health, and other related regulations that support consumer rights. Despite the availability of an adequate legal framework, this study identifies several significant challenges in its implementation. These challenges include weak government oversight, the lack of deterrent effects from criminal sanctions, and low public awareness of consumer rights. Additionally, resource limitations, both in terms of laboratory infrastructure and the competency of law enforcement officials, hinder effective consumer protection efforts. In the context of digital trade, monitoring hazardous product distribution becomes increasingly complex due to inadequate mechanisms for overseeing online transactions. Furthermore, the study highlights the lack of coordination among relevant agencies, which impedes a comprehensive approach to criminal law enforcement. This research provides a normative juridical perspective to address gaps in the literature concerning consumer protection from the standpoint of criminal law. It recommends regulatory reforms that include strengthening deterrent effects through revised criminal sanctions, employing technology-based supervision for digital transactions, and enhancing inter-agency coordination in enforcing consumer protection laws. The findings of this study are expected to guide policymakers in improving the existing legal framework to enhance consumer protection in Indonesia.

Keywords: criminal law, consumer protection, hazardous products, regulatory implementation, Consumer Protection Law, e-commerce monitoring, legal reform.

INTRODUCTION

Consumer protection has become a central concern in the modern era, particularly in addressing products that pose risks to public health. Law Number 8 of 1999 on Consumer

Protection provides the legal basis for consumers to exercise their rights, yet its implementation still faces significant challenges. For instance, counterfeit food and pharmaceutical products in the market represent a tangible threat. These products often fail to meet safety standards as stipulated in Government Regulation Number 28 of 2004 on Food Safety, Quality, and Nutrition.

Consumers' lack of awareness regarding their rights exacerbates this situation, making them vulnerable to fraudulent practices and exploitation by irresponsible business actors. Many consumers are unaware that they are entitled to accurate information and safe products, resulting in uncertainty and losses. This problem is compounded by weak governmental oversight of violating businesses, where penalties often involve administrative sanctions that fail to serve as deterrents. Miru and Yodo (2011) highlight that without strict criminal enforcement, business actors feel unthreatened and continue their illegal practices. This legal uncertainty creates an unsafe environment for consumers, exposing them to substandard products and serious health risks. Consequently, this situation reflects systemic failures in protecting consumers and enforcing laws against harmful violations.

The imbalance of bargaining power between consumers and producers often leaves consumers at a disadvantage. Although Law Number 36 of 2009 on Health provides protection for health-related products, its implementation remains suboptimal (Widjaja & Yani, 2000). Products without distribution permits, such as traditional medicines and slimming products, exemplify weak regulatory enforcement, creating substantial risks for consumers. Many such products are widely available without stringent control, leaving consumers unaware of the potential dangers they pose. Muliasari and Sukranatha (2020) highlight that the circulation of these illegal products often occurs without adequate legal action, despite the serious health risks they entail. The ambiguity in regulations and their enforcement emboldens business actors to market unsafe products, while consumers remain unaware of the lurking dangers. This creates a hazardous environment where public health is jeopardized by untested and unregistered products, underscoring systemic failures in consumer protection.

The legal responsibility of business actors is also frequently neglected. Janus Sidabalok argues that producers have both a moral and legal obligation to ensure the safety of their products for public consumption. However, many prioritize profits over consumer safety (Sidabalok, 2006).

Data indicates that many consumers refrain from reporting violations they experience due to lack of knowledge or fear of navigating complex legal processes. One of the main obstacles to consumer protection is the lack of socialization about these rights at the community level (Barkatullah, 2010). Meanwhile, Law Number 18 of 2012 on Food regulates food product safety standards, yet its implementation is often hindered by insufficient human resources and infrastructure for oversight. Consumer protection in the food sector requires a more serious approach to law enforcement (Siahaan, 2005).

In the criminal law dimension, Arief underscores the importance of legislative policies that support law enforcement against consumer protection violations. Current criminal penalties fail to provide adequate deterrents for violating business actors (Arief, 2010).

In the e-commerce sector, violations of consumer protection are on the rise, particularly with the proliferation of illegal food and drug products sold online. According to Sukmawati and Purwanto (2021), e-commerce platforms often serve as mediums for the distribution of hazardous products, highlighting weak oversight of digital transactions.

Wedhaswari and Martana (2023) observe that the responsibility of e-commerce platforms in preventing the circulation of illegal products has yet to be effectively realized. This contravenes provisions in Law Number 8 of 1999 on Consumer Protection, which mandates that business actors ensure the safety of the products they sell.

These various issues highlight significant gaps in consumer protection law, both in terms of regulation and implementation. Previous research has extensively addressed consumer protection, but comprehensive studies specifically examining the protection against hazardous products from a criminal law perspective remain scarce. This research aims to fill that gap by providing focused analysis on criminal law enforcement in the context of consumer protection.

The novelty of this research lies in its normative juridical approach, specifically addressing the application of criminal law in handling hazardous product cases. The study also includes analysis of the latest regulations, such as developments in e-commerce oversight, which is often used as a medium for distributing illegal products. The research aims to analyze the application of criminal law in consumer protection against hazardous products and identify legal challenges hindering effective law enforcement in this area.

METHODS

This research is a literature study employing a normative juridical approach. This approach is chosen to analyze the application of criminal law in consumer protection against products that pose health risks, by examining statutory regulations, legal doctrines, and relevant literature.

The data sources utilized in this study are secondary data, which include primary, secondary, and tertiary legal materials. Primary legal materials consist of statutory regulations, such as Law Number 8 of 1999 on Consumer Protection, Law Number 36 of 2009 on Health, and related government regulations. Secondary legal materials comprise books, journals, and previous relevant studies, while tertiary legal materials include legal dictionaries and encyclopedias.

Data collection was conducted through a systematic review of legal documents, books, and academic articles relevant to the research topic. This process was performed rigorously to ensure the validity and relevance of the data. The data collection technique also includes the analysis of court decisions related to consumer protection cases.

The validity of the data is ensured through a triangulation method, which involves comparing and integrating information from various primary, secondary, and tertiary legal materials to derive accurate conclusions. This process aims to eliminate bias in data interpretation.

The data analysis technique employed is descriptive-qualitative analysis, which entails elaborating on the content and substance of statutory regulations while comparing the application of criminal law in consumer protection across real cases. This analysis seeks to identify patterns, weaknesses, and opportunities in the existing legal enforcement framework.

RESULTS AND DISCUSSION

The Application of Criminal Law in Consumer Protection Against Hazardous Products

The application of criminal law to protect consumers from hazardous products represents a tangible manifestation of legal protection as mandated by Law Number 8 of 1999 on Consumer Protection. Article 62(1) of this law stipulates criminal penalties for business actors who fail to fulfill their obligations to ensure the safety, quality, and efficacy of their products.

In the context of criminal law, business actors who produce or distribute hazardous products may face prosecution under the Indonesian Penal Code (KUHP). For instance, Article 204(1) of the Penal Code prescribes criminal penalties for individuals who knowingly sell or distribute goods that endanger human health or life. This provision offers a legal foundation for imposing criminal sanctions on business actors who negligently or intentionally jeopardize consumer safety.

Criminal enforcement against violators also involves provisions under Law Number 36 of 2009 on Health. Article 196 of this law stipulates criminal liability for individuals who produce or distribute pharmaceutical preparations that do not meet safety standards. Such cases are prevalent, particularly involving the distribution of illegal drugs or products without marketing authorization, which violates government regulations such as Government Regulation Number 28 of 2004 on Food Safety, Quality, and Nutrition.

For example, research by Sukmawati and Purwanto (2021) highlights that many counterfeit drugs are traded through digital platforms. Although criminal law prescribes strict sanctions, offenders often exploit weak oversight in the digital sector to evade accountability. This indicates the need for stronger legal mechanisms, including technology-based supervision to monitor online transactions.

Wedhaswari and Martana (2023) reveal that criminal liability for e-commerce platforms is often unenforced, despite these platforms being conduits for the circulation of illegal products. To address this issue, law enforcement must impose stricter sanctions on e-

commerce platforms that violate regulations, as stipulated in Law Number 8 of 1999, which states that business actors, including intermediaries, are responsible for ensuring the safety of marketed products. Additionally, there is a need to develop clearer and more specific regulations regarding platform responsibilities in supervising listed products, including obligations to audit and verify sellers and their products. These measures are expected to foster greater accountability among e-commerce platforms and reduce the circulation of illegal products that endanger consumers.

One of the primary challenges in the application of criminal law is proving the intent or negligence of business actors. To overcome this issue, reform in the legal system is necessary to enable stricter accountability without requiring proof of intent. One potential solution is adopting an objective liability approach, wherein business actors can be held accountable for damages caused by hazardous products, regardless of their intent or negligence. This shift would redirect the focus from proving intent, which is often difficult, toward more effective law enforcement that protects consumers and encourages business actors to take greater responsibility in ensuring product safety. Such an approach would enhance consumer protection and promote adherence to higher safety standards (Arief, 2010).

The criminal law approach also requires synchronization with other legal instruments, such as Law Number 18 of 2012 on Food, which mandates business actors to ensure the safety and quality of food products. Although these provisions provide additional grounds for enforcement, their implementation faces challenges at both technical and institutional levels. The lack of public awareness about consumer rights to criminally prosecute business actors further exacerbates the problem. This highlights the need for collaborative efforts among the government, legal institutions, and society to enhance consumer legal awareness (Nasution, 1995).

Internationally, some countries have adopted stricter criminal law policies. For example, Agnes M. Toar examined product liability in various countries and noted that developed nations tend to impose harsher criminal penalties to create a deterrent effect (Toar, 1995). Indonesia can learn from these practices to strengthen its criminal legal framework.

Overall, while Indonesia has a robust legal foundation for applying criminal law in consumer protection, its implementation requires improvement. Enhanced supervision, increased capacity of law enforcement agencies, and the utilization of technology can serve as viable solutions to address existing challenges.

Legal Challenges in Enforcing Consumer Protection Against Hazardous Products in Indonesia

The enforcement of consumer legal protection against hazardous products faces significant challenges. One of the primary issues is weak oversight of business actors, both offline and online. While Law Number 8 of 1999 on Consumer Protection provides a clear

legal framework, its implementation is often hindered by a lack of coordination among relevant institutions. This is reflected in the insufficient imposition of strict sanctions for serious violations, as stipulated in Article 62 of the Consumer Protection Law.

In the e-commerce context, regulations such as Government Regulation Number 71 of 2019 on the Implementation of Electronic Systems and Transactions have not been fully effective. Digital platforms often serve as conduits for the circulation of illegal and hazardous products, including unlicensed health products. Sukmawati and Purwanto (2021) observe that government oversight of digital transactions remains highly limited, allowing many violations to go undetected.

Another challenge is the limited capacity of law enforcement officers to handle consumer protection violations, often due to a lack of understanding of specific consumer protection regulations, including criminal law aspects. To address this issue, capacity-building programs and training for law enforcement officers are essential to improve their understanding and effective application of consumer protection regulations. Developing clear operational guidelines for handling consumer protection cases is critical, ensuring that law enforcement officers have a reliable reference for carrying out their duties. These measures are expected to enhance the effectiveness and responsiveness of law enforcement in addressing violations, thereby providing better protection for society (Mukti & Achmad, 2010).

Legislative policies in criminal law are often not matched by adequate enforcement efforts. For instance, although Article 204 of the Penal Code provides a basis for prosecuting business actors who distribute hazardous products, proving intent or negligence in court remains a major obstacle. This underscores the need for reform in criminal evidence law (Arief, 2007).

Another challenge arises from the lack of consumer awareness regarding their rights. Many consumers do not report violations due to ignorance of their rights or apprehension about navigating complex legal processes (Nasution, 1995). This is further compounded by limited access to information on reporting mechanisms and case handling in consumer protection.

Disparities in interpretation among law enforcement agencies also pose challenges to criminal law enforcement. Disagreements between the police, prosecutors, and courts on the application of consumer protection laws, particularly in cases involving health products, often create inconsistencies (Sidabalok, 2006).

Widyaningrum and Islamiati (2022) note that the distribution of counterfeit and illegal drugs often involves international syndicates, necessitating cross-border coordination. Although Law Number 36 of 2009 on Health and Law Number 18 of 2012 on Food include relevant provisions, they lack sufficient mechanisms to address cross-border violations effectively.

Another major challenge is the inadequate deterrent effect of existing criminal sanctions. Light penalties are often disproportionate to the profits gained by business actors from selling illegal products. This incentivizes continued violations, despite awareness of legal risks (Shofie, 2008).

Technical challenges in laboratory testing to prove that a product is hazardous to health also hinder enforcement. Government Regulation Number 58 of 2001 on Consumer Protection Supervision sets standards for product testing, but limitations in laboratory facilities and expert personnel in many regions render this process ineffective.

From an international perspective, some countries have adopted product tracking systems to ensure safety. To address this issue, Indonesia can adopt similar approaches, utilizing technologies such as blockchain-based tracking systems or QR codes to monitor products from production to end-users. Implementing an effective tracking system would allow consumers to easily access information about the origins and safety of products, while authorities could quickly identify and respond to potentially hazardous products. This approach would not only enhance supply chain transparency but also bolster consumer trust in the products they purchase (Toar, 1995).

The enforcement of consumer legal protection against hazardous products in Indonesia faces challenges across various aspects, including weak oversight, limited law enforcement capacity, inadequate infrastructure, and low consumer awareness. Regulatory reforms and enhanced inter-agency coordination are required to address these obstacles and achieve effective legal protection.

CONCLUSION

This study finds that the application of criminal law in consumer protection against hazardous products in Indonesia is supported by a robust legal foundation, as outlined in Law Number 8 of 1999 on Consumer Protection, Law Number 36 of 2009 on Health, and other complementary regulations. However, its implementation is hindered by various challenges, such as weak oversight, low consumer legal awareness, limited law enforcement capacity, and insufficient deterrence from existing criminal sanctions.

Legal enforcement is further constrained by the lack of monitoring mechanisms for digital transactions, particularly on e-commerce platforms, which often facilitate the circulation of illegal products. Additionally, the lack of synergy among relevant institutions exacerbates this issue. To overcome these challenges, several strategic measures are needed. First, the government must enhance oversight of products circulating in the market, both offline and online, by utilizing technology for early detection of violations. Second, the deterrent effect of criminal sanctions should be strengthened through the revision of penalties to align with the severity of the violations.

Third, public awareness campaigns on consumer rights should be intensified through public outreach and formal education, ensuring that consumers understand the available legal mechanisms. Fourth, inter-agency coordination in law enforcement should be reinforced, including the involvement of the public in reporting violations. Finally, prioritizing the development of laboratory infrastructure and expert personnel is critical to effectively support product safety testing.

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