

Harmonization of the Three Main Pillars in Order to Realize the Value of Balance in Consumer Protection

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Abstract

This research work is a dissertation; it is socio-juridical in nature. It studied and discussed secondary materials of legislations in the form of manual and electronic literatures of law, relevant law research results, particularly in the field of consumer protection, and other relevant written materials. It also examined legal facts of consumer protection and their impacts on the general public. The aims of this research work are as follows: 1) To describe the idea of "Value of Balance" in the Consumer Protection Act; 2) To describe the responsibilities of involved parties (consumers, businesses and government) in order to create a state of balance in the consumer protection process; and 3) To describe the roles of four supporting pillars in the realization of balance in consumer protection. The results of this research revealed that: 1) The value of balance in the Consumer Protection Act is based on the synergy between the rights and obligations of consumers, the rights and obligations of business actors, the duties and responsibilities of the government, the support of both public and private agencies, efforts at consumer dispute resolution, and the supervision of standard contracts; 2) The rights, obligations, and responsibilities of consumers, businesses, and the government were not fully realized. This means that the mandate of the statutory provisions in the field of consumer protection was not achieved; hence, balance was not achieved; 3) The four supporting pillars (government's efforts, consumer protection agencies, the use of standard contracts, and consumer dispute resolution) did not help to realize balance in consumer protection.

Keywords: Harmonization, Value of Balance, Consumer Protection.

INTRODUCTION

It has been fifteen years since the Law No. 8 of 1999 on Consumer Protection (UUPK, for short) was enacted by the government. However, its implementation has been weak, especially in terms of guaranteeing the rights of consumers and in consumer dispute resolution.

The more advanced the economic development of a country (which affects the development of the world industries and economies), the more the legal instruments required to regulate and protect the rights of consumers in order to create balanced business climates between consumers and business actors.

Essentially, the relationship between businesspersons and consumers is not balanced. Business persons have a better knowledge of production processes and rendering of services than consumers. In addition, they possess capital capability and a stronger bargaining position. Imbalances in contractual relations between consumers and business doers are marked with a great number of one-sided agreements (standard contracts) that are often very bulky and harmful to the interests of consumers.

An unbalanced relationship would create a situation in which consumers have to accept an agreement that was prepared in advance by business actors or they (consumers) will not get the goods and/or services they require (take it or leave it).

According to the constitution, Indonesia is obliged to protect all its citizens, ensure their general welfare, and realize a just and prosperous society. One form of protection is the enactment of UUPK. To ensure that this objective is achieved, the government should be involved in contractual relationships between consumers and businessmen to create a relationship that is 'balanced' between the two parties. We are of the view that the government should be included in contract relationships. In this dissertation, we call these three groups (consumers, businesses and the government) the "3 main pillars in the protection of consumers".

In the provision of UUPK Article 2, it is explicitly stated that "consumer protections are based on the principles of benefit, justice, balance, security, and safety of consumers as well as certainty of law", especially the principle of balance that is intended to provide a balance between the interests of consumers, business actors, and government both in material and spiritual perspectives.¹

Consumer protection is an integral part of healthy business activities. In healthy business activities, there should be a balanced legal protection among consumers, businesses, and government; the lack of a balanced protection would put consumers in a weak position. Consumers' position would be worse if the products offered by businesses are scarce; they may abuse their monopolistic position, which would be detrimental to consumers.²

There are evidences to show that current practices in the area of Consumer Protection (*Das Sein*) do not totally comply with the provisions of the Consumer Protection Law and other related regulations (*Das Sollen*).

¹Ahmadi Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen*, Rajawali Pers, Jakarta. Cetakan 7. 2011. p. 25.

²Ahmadi Miru, *Prinsip-prinsip Perlindungan bagi Konsumen di Indonesia*, Rajawali Pers, Jakarta. 2011. p.1

This has brought about a serious issue which is that "the practice of Consumer Protection so far has not yet reflected the value of balance despite efforts at realizing the welfare of society." This issue is a very interesting one; it is studied and analyzed in-depth in this research.

Based on the description above, the problem statement of this research is: 'What does the realization of the "Value of Balance" mean with respect to the Consumer Protection Act?' Accordingly, this research aims to ascertain the extent of the realization of the "Value of Balance" as advocated in the Act of Consumer Protection and find out how the responsibilities of the involved parties (consumer, business communities and government) were carried out.

This study is an effort to develop science in the field of consumer protection laws. It is also expected to serve as a reference in formulating policies and developing regulations, especially consumer protection laws.

THEORETICAL FRAMEWORK

The UUPK No. 8, 1999 as specified in Chapter II on Principles and Objectives states that Consumer Protection is based on the principles of benefit, justice, balance, security, and safety of consumers as well as legal certainty. These principles were derived from the values on which the establishment of the act is based.

In the Act of Consumer Protection, in addition to the value of balance, which is a very important value that influences the realization of the objectives of consumer protection, there are other values which, in our point of view, have strategic influences on the realization of a state of balance, which helps to achieve consumer protection. They include the values of fairness, usefulness, safety and security, and legal certainty.¹

The value of balance is intended to provide a compromise between the interests of consumers, business persons, and governments in the sense of material and spiritual perspectives.²

As interpreted in everyday language, the word "balance" refers to the notion of a "load sharing on both sides in a balanced state." In the context of this study "balance" is defined as a state of silence or harmony derived from acts of various powers in which one power does not dominate the other(s).

By looking at the substance of Article 2 of UUPK and its explanation, the principles of law can be put in 3 categories as follows:

1. Principle of expediency, which includes the principles of security and safety of consumers;
2. Principle of justice, which includes the principle of balance;
3. Principle of legal certainty.³

Radbruch mentions that fairness, expediency, and legal certainty are the "three basic ideas of law" or "the three basic values of law."⁶ Of the three principles, the principle of justice often becomes the main focus, on which Friedman states that:

"In terms of law, justice will be judged as how law treats people and how it distributes its benefits and cost". In relation to this, Friedman also stated that "every function of law, general are specific, is allocative".

As a principle of law, this principle is the first reference both in the regulation of legislation and in various activities related to consumer protection movements by all parties involved.

Also, many jurists claim that fairness, expediency, and legal certainty are the objectives of law. The problem is that, as Radbruch and Achmad Ali claim, it is difficult to realize them at the same time. Achmad Ali questioned, if they are the objectives of law that have to be realized concurrently, do justice, expediency, and legal certainty, not pose a problem?

It frequently happens that one objective interferes with other objectives. He gave an example, in a particular legal case, if the judge wants a fair verdict according to his perception, then the consequences are often detrimental to the interests of the community and vice versa.⁷ In this regard, Radbruch teaches:

That we should use the principle of priority in which the first priority always falls on fairness, then expediency, and finally on certainty of law." Achmad Ali did not fully agree to this opinion, as he has said:

Personally, I would agree to adopt the principle of priority, but not to have set a priority order as taught by Radbruch, namely, justice on the first, benefit on the second, and legal certainty on the last order.

Ahmadi Miru considers that it is more realistic if we adhere to the principle of casuistry priority.⁴ What he means is that the three objectives are assigned a priority in accordance with the law for a case at hand; case A might be applicable for expediency priority, while case B for legal certainty.

Thus it can be said that through the principle of casuistry priority, each of the objectives of law, i.e., to achieve justice, expediency, or certainty of law, depends on the conditions at hand or faced in a case.

The principle of balance is grouped into the principle of expediency, considering that a state of balance

¹Herlien Budiono, 2006, Azas Keseimbangan bagi Hukum Perjanjian Indonesia, Hukum perjanjian berlandaskan azas-azas wigati Indonesia, (alih Bahasa: Belanda) Bandung: Citra Aditya, p.304.

²Ahmadi Miru & Sutarman Yodo, 2011, Hukum Perlindungan Konsumen, Jakarta: Rajawali Pers,p.25

³Ahmadi Miru & Sutarman Yodo, 2011, Hukum Perlindungan Konsumen, Jakarta: Rajawali Pers, pp.26-35.

⁴Ahmadi Miru & Sutarman Yodo, 2011, Hukum Perlindungan Konsumen, Jakarta: Rajawali Pers, p. 28

is also justice to the interests of all the parties. Government's interests in this context do not include direct commercial transactions, which should only take place between business persons and consumers. Governments have to represent the public interests of both parties through supervisions and controls in the form of policies put forth by the various legislations.¹

A balanced protection of business actors and consumers displays statutory functions which, in the view of Roscoe Pound, is considered a means of controlling social life by putting "interests" existing in the community in balance, or in other words, a means of social control.² A balanced legal protection for business doers and consumers cannot be separated from the regulation of the legal interactions among involved parties. According to Bellefroid, in general, either public or private legal relations have to be based on the principles of freedom; legal subjects are free to perform what they want to but are limited by the wishes of others and they should maintain social order.

With the principle of equity, every individual has the same position in law to implement and reinforce their rights. In this case, laws provide each individual with equal treatment. The principle of solidarity is actually the opposite of the principle of freedom.

While rights stand out in the principle of freedom, obligations do in the principle of solidarity and each individual agrees to maintain a steady social life as a way of ensuring human survival. Through the principle of solidarity, it is possible (for the purpose of preserving a good state of community life) for the government to interfere with any case that is private in nature.³ In this regard, the interests of the government are carried out in accordance to the principle of equality.

John Rawls, in his article *A Theory of Justice*, elaborated on the concept of justice put forward by the utilitarian group and proposed a theory that justice is a natural thing.

The principle of justice according to the utilitarian group is that justice has to be applied even though other parties get harmed as long as a larger number of people benefit (The greatest happiness for the greatest number). According to Rawls, justice could be said to have been done despite some inequalities in terms of distribution. However, an inequality should be able to protect or improve the position of the least advantaged in society, optimizing a minimum condition.

Accordingly, in our opinion, being just does not always mean equal distribution, but that parties with weaker positions should be protected.

A further exploration of the utilitarian and John Rawls' theories on the concept of justice is presented as follows:

1. According to the Utilitarian ideology (Bentham, Hume and JS Mill), justice will be obtained if the use of the resources of a community reaches an optimal level; in this case Average Utility is calculated per capita. This initiated the famous phrase: "The Greatest happiness for the greatest number".

2. According to John Rawls, justice will be obtained if the use of resources reaches a maximum point at an even manner by taking into account the personality of each person/group (*justice as fairness*).⁴

The principle of justice of Utilitarian ideology is that happiness is for as many people as possible and therefore, the law must be able to provide benefits (utility) for as many people as possible by considering all involved parties; in other words, providing benefits by taking the personality of each person/group into account.

John Rawls further states that "fair" is called so although some inequalities come up. But, inequality should be able to improve the position of the least advantaged. Accordingly, being just does not mean even, but that those of weaker positions should be protected.

This research also elaborated a legal theory proposed by Roscoe Pound, *Theory of Interest Balance*, in which the Unites States of America's Pragmatism is the basis. In line with the pragmatism applied in his country, Pound tended to avoid theoretical constructs that are generally too abstract like theories that emerged in Europe. For Pound, laws cannot be allowed to float on the concept of logic or immersed in elusive technical juridical expressions. Rather, they must be practical in the real world, i.e., the social world that is overcrowded with competitive needs and interests.⁵

Basically, the "initial conditions" of the structure of a society are always in a state that is less balanced; some are too dominant while others are marginalized. To create a "civilized world", the structural imbalances need to be reorganized in a pattern of proportional balance. In this context, laws that are logical, analytical and abstract (pure laws) or those that contain a picture of reality (sociological) are not reliable.

These types of laws, at most, only conform to what has been in place. They cannot change a situation.

¹Ahmadi Miru & Sutarman Yodo, 2011, *Hukum Perlindungan Konsumen*, Jakarta: Rajawali Pers, p. 28

²Ibid p. 28

³Ibid, p. 29

⁴ John Rawls. 1971, *A Theory of Justice*. Cambridge, Massachusetts, USA, The Belknap Press of Harvard University Press, pp. 196-201.

⁵ Berdnard L Tanya, Yoan N Simanjuntak, dan Markus Y Hage, *Teori Hukum, Strategi Tertib Manusia Lintas Ruang dan Generasi*, Genta Publishing, Yogyakarta. pp.154-155.

Therefore, progressive steps are required to enable laws to bring about changes. This view initiated Pound's theory of *law as a tool of social engineering*. The question then arises is: what should be worked out by law in the context of social engineering? The answer is "managing interests existing in society."

The interests should be arranged in a way as to achieve a proportional balance. The advantage is that it could establish a stable community structure up to a point where satisfaction is achieved and conflicts and uselessness can be avoided.

RESEARCH METHODS

This research was carried out as a dissertation. It is a socio-juridical type of research. It studied and discussed secondary materials of legislations in the form of manual and electronic law literatures, relevant law research results, particularly in the field of consumer protection and other relevant written materials. It also examined legal facts about consumer protection conditions and their impacts on the general public.

This law research type (the combination of normative and sociological aspects) was used on the reference to serve as a distinction between a normative law research and a sociological legal research.¹

By combining the two methods, it is expected that the results of the research could reveal the concordance between the science and its objects so that the truth found carried a high level of validity, and was objective and logical, because it is about the agreement between objects and what is already known.²

The population of the research was the consumers in Makassar city. Makassar was chosen because it is one of big cities in Indonesia and more especially, because it is a representation of the east region of Indonesia. In addition, the population of the city is quite large. Furthermore, the issue of consumer protection is applied in the city as it is applied in other big cities across the country. Therefore, it was considered that the consumers in Makassar, who constitute the population of the research, was representative. The geographical location of the population facilitated the implementation of the research without decreasing the quality of the representation of the population.

The samples taken were divided into three major groups, consumers, business doers, and government. The larger the sample, the smaller the percentage rate of distortion. Because the samples of consumers and businesses were large, they were taken randomly and stratified, using *Stratified Random Sampling* method. As many samples as possible were taken from the government and the number of samples was made to be close to the number of samples of the population so that answers obtained from them could be closer to reality.

Data collection was performed by using the techniques of documentation, interviews, and questionnaire. In the questionnaire, each question was answered by respondents using a likert scale that was provided. Data analysis was based on frequency tables in which the tendency of each answer was analyzed. Subsequently, conclusions were drawn and were followed by descriptive analysis to analyze and address existing problems.

RESULTS AND DISCUSSION

1. The Value of Balance in the Consumer Protection Act (Act No. 8, 1999)

After having studied a total of 65 articles in the UUPK, we found that there were 29 articles that dealt on interests (rights and obligations) and they implied balance.

In our opinion, if consumers have to be protected, the rights and obligations (interest) of consumers and business actors, governments' responsibilities as well as the role and function of private and public consumer protection agencies, including all the criteria set out in Articles of UUPK as a crystallization of balance, must be fulfilled and implemented as much as possible. The fulfillment of rights, obligations and responsibilities will protect consumers and business doers against losses that might arise from a variety of causes; these are the terms for realizing balance. To make it easier to understand how balance is reached, the figure below shows that the three main pillars, i.e. consumers, business doers, and governments must be supported by good consumer protection agencies and governments' efforts through programs that favor the protection of consumers in the society. They also have to be supported by adequate efforts to resolve consumer disputes (litigation and non-litigation). In this way, equitable and beneficial consumer protection for all the people of Indonesia would be achieved.

With the aid of the above figure, we will show how the theory that we developed and named "Theory of Harmonization of the 3 Main Pillars in Consumer Protection" works for the purpose of understanding the concept of the value of balance.

The principle of balance is classified under the principle of fairness, given its nature that the balance in question also means justice to the interests of each of the three parties: consumers, business doers, and governments.³

¹ Ronny Hamitidjo Soemantri, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, 1994, p. 9.

² Soetrisno et. al., *Filsafat Ilmu dan Metodologi Penelitian*, Andi, Yogyakarta, 2007, p. 10

³ Ahmadi Miru dan Sutarman Yodo., 2011, *Hukum Perlindungan Konsumen*, Rajawali Pers: Jakarta., p.28

In our opinion, in line with Roscoe Pound's theory, the balance in question is the balance of the interests of consumers, business actors, and governments (3 main pillars of consumer protection). Consequently, to realize that balance, it is necessary to establish a synergy among all interests.

Synergy¹ among the interests of the 3 main pillars mentioned above and supported by governments' efforts, consumer protection agencies, optimal mediation in consumer leverage, regulations and oversight on the use of standard contracts in society, in our opinion, will realize balance in consumer protection. This in turn will ultimately create harmony² or ideal conditions/atmospheres for consumer protection, where all the parties will gain benefits that will bring prosperity and justice to all the people.

2. Responsibilities of consumers, business actors, and governments in realizing balance in consumer protection

We reached the following conclusions from the responses of the above respondents: of the nine indicators related to consumer rights in terms of the consumer's perspective, five corresponded to expectations, provision and rule of law; we regarded them as positive (+). Three did not conform to the regulations/legislation and we regarded them as negative (-). The last one was neutral. This suggested that although the number of positive factors was more than the negative ones, it is our submission that there were still obstacles that would impede the achievement of balance in consumer protection (as depicted in the table below).

The conclusion drawn from consumers' assessment of the responsibilities of business actors from the consumers' perspective was that all the eight indicators relating to the responsibilities of business doers were incompatible with the expectations, rules and regulations; we regard them as negative (-). This implied that the perception of the responsibilities of business actors according to consumers responses was still very poor and therefore, would also be an inhibiting factor in realizing balance in consumer protection.

The conclusions that we reached based on the responses of business doers with regard to their responsibilities was that, of the three indicators, two did not correspond to the value of balance (negative) while the other one accorded to balance (positive). Thus, it was interpreted that the responsibilities of business doers was also poor and it impeded any effort to achieve balance in consumer protection.

The conclusions made from the above five indicators with respect to the responsibilities of consumers viewed from the perspective of business operators was that 3 indicators were balanced (positive) while the other two were not (negative). Therefore, in our opinion, in spite of the fact that the positive elements are more, there were still inhibiting factors in achieving balance in consumer protection.

From the 7 indicators of governments' responsibilities assessed from the perspective of business doers, it was concluded that 6 out of the seven indicators were not balanced (negative).. Only 1 indicator was balanced (positive); hence, six out of the seven indicators turned up as obstacles in achieving balance in consumer protection.

In total 32 indicators were assessed by consumers and business actors. Eleven of them corresponded to the value of balance (positive) while 21 indicators did not correspond to the value of balance (negative); only one of the assessed indicators was neutral.

It was concluded that the efforts made to fulfill the rights and obligations of consumers and business actors still encountered quite a number of constraints. The number of indicators that did not correspond to the expectations and the statutory provisions on consumer protection (corresponding to the value of balance) was more than the number of those that did.

¹ Synergy is the process of combining several activities in order to achieve a doubled outcome. Synergy is the key to achieving coordination and cooperation, because without coordination and cooperation it is certainly difficult to achieve the targets set. "Alignment is the essence of management," said Fred Smith, Chairman Federal Express. (Sugiartosumas@nakertrans.go.id / NEWSLEDGE). Posted 13th January 2014.

² In *Kamus Besar Bahasa Indonesia* (KBBI), *harmonis* [harmonious] is interpreted as concerned with a harmony; accord to one another. Meanwhile, *mengharmoniskan* [harmonize] means to make harmonious, *pengharmonisan* [harmonizing] is a process, a way, an act to harmonize, and *keharmonisan* [harmonization] is defined as the state of harmony; concordance. National Law Development Agency of Depkumham (Legal and Human Right Department) defines *harmonisasi hukum* [law harmonization] as scientific activities for making harmonious process (adjustment/concordance/balance) of written law referring to philosophical, sociological, economic and juridical values. On the basis of the definitions, it can be interpreted that the three main pillars harmonization of consumer protection is the process of harmonization and alignment of the interests of consumers, business doers, and governments as an integral part of the system or sub-system of consumer protection in order to achieve its objectives.

Source: Setio Supto Nugroho, Head of Legislation Bureau, the State Secretariat for Economic Affairs, Jakarta, 2009.

3. Governments' efforts, Consumer Protection Agencies, Use of Standard Contracts and Efforts aimed at Consumer Dispute Resolutions

a. Governments' efforts through work programs

Based on the results of this research, the problems that hindered the provision of these services to the community were limited outreach, facilitation, and entrepreneur coaches in the field of industry and commerce, partly because of limited budgetary allocation. Other constraints were unavailability of up-to-date data on the potentials of small and medium-sized businesses, a lack of synergy between SKPD and other stakeholders, and unavailability of data of business doers/street vendors that kept growing in Makassar city.¹

The above finding is in line with what the Head of Consumer Protection and Metrology Division of Depperindag (Industry and Trade Department) of Makassar, Sri Rejeki, said in an interview on June 18, 2014. She explained that there were constraints that were not yet surmounted. For example, the number of socialization programs on the issue was still limited. As a result, many consumers and even business actors do not know and understand good consumer protection regulations and the availability of relevant institutions such as the BPSK at the Depperindag Office Makassar.

b. Consumer Protection Agencies

The Head of BPKN, Suhartini Hadad, said that the number of LPKSM on record was 254 units, but only about 30% actively advocated consumer protection. Suhartini told the press at the National Communication Forum of LPKSM III in Surabaya on Thursday, January 24, 2013 that "of the approximately 254 LPKSM throughout Indonesia, only about 80 to 90 LPKSMs actively advocated consumer protection while the others did not,"

Suhartini, usually called Tini Hadad, explained that in general, funding issues prevented them from performing their jobs, advocating consumer protection. "Sometimes, the board members of the agencies had to spend their own money to run their programs; they did not get any financial aid from either the local or the central governments."

Meanwhile, the Chairman of BPOM admitted that they still needed more employees. They had a limited number of inspectors and auditors. In addition, the quality of their inspectors and auditors was still low; the current audit scope of BPOM by means of production and distribution in Indonesia is approximately 18% only. In other words, on the average, each facility is re-audited every five years. Ideally, surveillance over every facility audited should be performed at least once in 2 years. The low intensity and supervision coverage could weaken the position of producers or distributors.

All the consumer protection agencies were weakened by the issues described above.

c. Use of Standard Contracts

The results of the research conducted on 92 business actors in Makassar city, especially those that applied standard contracts, revealed that there were breaches on the provisions that should be complied with when the standard contracts were made. One of them was that standard contracts were typed in a size that can hardly be read by consumers, usually printed at the back of forms, prepared in advance by business actors. Violations were found at a freight company that made its standard contract in a foreign language (English) which could not be understood by certain consumers. Also, a laundry services company limited their liability when a loss of certain financial value happened; they were prepared to refund only a maximum of 10 times the washing cost, even though the loss was caused by its negligence.

This suggests that the use of standard contracts did not really resolve the issue and still required close supervisions from the government as authorized by law to crack down on such a violation.

d. Consumer dispute resolution efforts

Although the enactment of Act No. 8 of 1999 has its benefits, consumers still find themselves in a position of weakness. However, it does not imply that their bargaining position was not protected by the country. In Indonesia, consumer lawsuits can be processed through general jurisdiction, i.e., individual lawsuits, class actions, legal standing lawsuits, government lawsuits, and police reports. These lawsuits are the types involved in consumer dispute resolution by litigation.

Another method of dispute resolution by consumers is non-litigation method. A non-litigation dispute resolution is the dispute resolution process that is currently considered to be the safest. The settlement of a dispute outside the court, however, should be conducted based on the law. Such a settlement can be classified as a high quality resolution, and it can result in thorough resolution without leaving hates and revenge. A non-litigation consumer dispute resolution is a legal and conscientious method of resolution. In this way, the law remains the main reference and conscience is subject to adhering to a peace agreement voluntarily, without leaving any parties feeling defeated since the decision resulting from such a method is favorable to both parties (win-win solution).

Consumer dispute resolution according to the Consumer Protection Act can be reached by a non-litigation method through the Consumer Dispute Settlement Board (BPSK). This kind of consumer dispute

¹Strategic Plans 2014-2019 of Industry and Trade of Makassar City.

resolution process can be reached by ways of mediation, conciliation, and arbitration.

The results of this research revealed that there was still insufficient focus on consumer protection issues up to the stage of dispute resolution either by litigation or non-litigation methods. Also, a large number of legal cases were still occurring in the community based on available data and facts (*Das Sein*). This is due to the low understanding and awareness level of the importance of consumer protection.

Conclusions and Suggestions

(1). Balance in the Consumer Protection Act is a synergy among various interests, i.e., consumers, business doers, and government. They are supported by public and private agencies in the field of consumer protection. Balance is concretely realized by the establishment of harmonized interests of all the parties whereby their rights and obligations are fulfilled and the responsibilities of the government are performed well, with the support of accountable consumer protection agencies through efforts aimed at resolving consumer disputes and regulating the use of standard contracts. In this way, balance is achieved and can benefit the whole society including consumers, business actors, and the government.

(2). The rights, duties, and responsibilities of consumers, business doers, and governments were not fully achieved. Consequently the mandates of the statutory provisions of consumer protection could not be realized. This certainly does not reflect balance.

3) The four supporting pillars (government's efforts, consumer protection agencies, use of standard contracts, and consumer dispute settlement) were not able to meet the expectations and hopes of the value of balance in consumer protection.

REFERENCES

- Abdul Kadir Muhammad, 1980, *Hukum Perjanjian*, Bandung: Alumni.
- , 1990, *Hukum Perikatan*, Bandung: Citra Aditya.
- Achmad. Ali, Prof. Dr. SH. MH. 2008, *Menguak Tabir Hukum*, Edisi 2, Jakarta: Ghalia Indonesia.
- Achmad Santosa dan Sulaiman N Sembiring, 1997., *Hak Gugat Organisasi Lingkungan (Environmental Legal Standing)*, Jakarta: Indonesian centre for Environmental Law / ICEL.
- A. Gunawan Setiardi. 1990. *Dialektika Hukum dan Moral dalam Pembangunan Masyarakat*, Yogyakarta: Kanisius.
- Ahmadi Miru, Sutarnan Yodo, 2004, *Hukum Perlindungan Konsumen*, Jakarta: Rajawali Pers.
- , 2011, *Prinsip-Prinsip Perlindungan Hukum Bagi Konsumen di Indonesia*, Jakarta: Rajawali Pers.
- , 2000, *Disertasi: Prinsip-prinsip Perlindungan Bagi Konsumen di Indonesia*, Program Pascasarjana Universitas Airlangga Surabaya.
- , 2012., *Hukum Kontrak Bernuansa Islam.*, Rajawali Pers: Jakarta.
- Agustinus Edy Kristanto & A. Patra M. Zen, 2009. *Panduan Bantuan Hukum Di Indonesia (pedoman anda memahami dan menyelesaikan masalah hukum)* Edisi 2, Jakarta: Yayasan Obor Indonesia.
- A Mangunhardjana, *Isme-isme dalam etika*, Kanisius, Jakarta, 1997
- Athiyah, P.S., 1995. *An Introduction to the Law of Contract*, 5th, Ed., Oxford University Press Inc., New York.
- Ayudha D Prayoga, dkk, 1999, *Persaingan Usaha dan Hukum yang mengaturnya di Indonesia*, Jakarta: Proyek ELIPS.
- Az. Nasution, 1994, *Iklan dan Konsumen (Tinjauan dari sudut hukum dan Perlindungan Konsumen) dalam Manajemen dan Usahawan Indonesia*, Nomor 3 Thn.XXIII, Jakarta: LPM FE-UI.
- , 1994, *Perlindungan Konsumen dan Peradilan di Indonesia*, Jakarta: BPHN Dep. Kehakiman RI.
- Badan Pembinaan Hukum Nasional (BPHN), *Kompilasi Perlindungan Konsumen*, (online) 21 Feb 2005.
- B Arief Sidharta. 1998. *Hukum Efektivitas dan Kultur Hukum*, Tinjauan tentang *Efektivitas Hukum dalam Perspektif Antropologi Sosial dalam "Percikan Gagasan tentang Hukum II"*. Editor: A.F, Elly Erawaty (et.al.), Bandung: Citra Aditya Bakti.
- Brian W Harvey, 1982, *The Law of Consumer Protection and Fair Trading*, Butterworths, London.
- B. Kusumohamidjoyo, 1999, *Ketertiban yang Adil: Problematika filsafat Hukum*, Jakarta: Grasindo.
- Bernard L Tanya, Dr., Yoan N Simanjuntak, Dr., Markus Y Hage, SH. MH, 2010, *Teori Hukum, Strategi tertib manusia Lintas Ruang dan Generasi*, Genta Publishing: Yogyakarta. Cetakan 3.
- Calamari & Perillo, 1977, *Contracts*, West Publishing Company.
- Celina Tri Siwi Kristiyanti,. 2008. *Hukum Perlindungan Konsumen*, Cetakan 1, Sinar Grafika: Jakarta.
- CJ. Miller, 1986, *Comparative Product Liability*, Volume 6, London: United Kingdom Comparative Law Series.
- Darji Darmodiharjo dan Sidharta. 1996. *Penjabaran Nilai-nilai Pancasila dalam Sistem Hukum Indonesia*. Jakarta: Rajawali Pers.
- Dedi Harianto., DR. S.H., M.Hum. 2010. *Perlindungan Hukum bagi Konsumen terhadap iklan yang menyesatkan*, Cetakan 1, Bogor: Ghalia Indonesia.
- Direktorat Jenderal Standardisasi dan Perlindungan Konsumen, *Pilar-pilar Peningkatan Daya Saing dan Perlindungan Konsumen*, Kementerian Perdagangan Republik Indonesia, 2012

- JM. Van Dunne, Van der Burght, (Terjemahan Lely Niwan), 1987, *Hukum Perjanjian*, Proyek hukum Perdata Kerjasama Belanda-Indonesia. Yogyakarta.
- , (Terjemahan Sudikno Mertokusumo), 1987, *Penyalahgunaan Keadaan*, Proyek Hukum Perdata kerjasama Belanda-Indonesia. Yogyakarta.
- Essel R Dillavou (et.al) 1962. *Principle Of Business Law*. New Jersey: Prentice Hall Inc.
- Fence M. Wantu, *Mewujudkan Kepastian Hukum, Keadilan dan Kemanfaatan dalam putusan hakim di Peradilan Perdata*, Jurnal Dinamika Hukum, Volume 2 No.3 / September 2012. Universitas Negeri Gorontalo
- Frans Magnis Suseno. 2001. *Etika Politik*. Jakarta: Gramedia Pustaka Utama.
- Gerald. F Gaus. 1990, *Value and Justification*, Cambridge, University Press.
- Gerald J. Thain, 1996. *Consumer law Its Development and Present State in The USA*, Ujung Pandang: Ellips Project.
- Gerald Beekman dan Rivai, 1984, *Para Filusuf Berfilsafat*, Erlangga, Jakarta.
- Gunawan Widjaya dan Ahmad Yani, 2000, *Hukum tentang Perlindungan Konsumen*, Jakarta: Gramedia.
- Happy Susanto, 2008. *Hak-Hak Konsumen jika dirugikan*, Cetakan1, Jakarta: Visimedia.
- Hardijan Rusli, 1996, *Hukum Perjanjian Indonesia dan Common Law*, Jakarta: Pustaka Sinar Harapan
- Hasanuddin Rahman., 2003, *Contract Drafting*, Bandung: Citra Aditya Bakti.
- Henry. P. Panggabean., 1992, *Penyalahgunaan Keadaan (Misbruik van omstandigheden) sebagai alasan baru untuk pembatalan perjanjian (Berbagai perkembangan hukum di Belanda)*, Yogyakarta: Liberty
- Herlien Budiono., 2006. *Azas Keseimbangan bagi Hukum Perjanjian Indonesia*, Bandung: Citra Aditya.
- Himawan, Ch., 1991, *Pendekatan Ekonomi terhadap Hukum sebagai sarana Pengembalian Wibawa Hukum*, dalam Majalah Hukum dan Pembangunan, No.5. Tahun XXI, Oktober, Jakarta: Fakultas Hukum Universitas Indonesia.
- Hornby A.S., 1989, *Oxford Advanced learner's Dictionary of Current English*, London: Oxford University Press.
- H. Ujang Abdullah., SH. M.Si (wakil ketua PTUN Palembang), *Perbuatan Melawan Hukum Penguasa*, (disampaikan dalam bimbingan teknis PTUN Propinsi Lampung, 13-14 Juli 2005.(internet) diakses tgl 1 maret 2013.
- Intan Nur Rahmawati, SH. MH. Dan Rukiyah Lubis, S.H., *Win-Win Solution Sengketa Konsumen*, Yogyakarta: Pustaka Yustisia, 2014
- Internet (no name)., *Pengertian dan Hakikat jujur*, <http://Hikmah kata.blogspot.com>, September 2012. Diakses tanggal 22 Januari 2014.
- Janus Sidabalok., 2010. *Hukum Perlindungan Konsumen di Indonesia*, Cetakan 2, Bandung: Citra Aditya Bakti.
- John Rawls., 1971. *A Theory of Justice*. Cambridge, Massachussetts, USA, The Belknap Press of Harvard University Press.
- JM. Van Dunne, Van der Burght., (Terjemahan Lely Niwan), 1987, *Hukum Perjanjian*, Proyek hukum Perdata Kerjasama Belanda-Indonesia. Yogyakarta.
- K Bartens, *Filsafat Barat Abad XX (Inggris-Jerman)*, Gramedia, Jakarta, 1983, h. 111-112.
- Kurniawan., *Permasalahan dan Kendala Penyelesaian Sengketa Konsumen melalui Badan Penyelesaian Sengketa Konsumen (BPSK)*, Jurnal Dinamika Hukum, Volume 12 No. 1 Januari 2012. Hal. 163
- Mansour Fakih., 2000, *Memahami Makna Advokasi*, dalam Roem Topatimasang, Mansour Fakih dan Toto Raharjo (ed), *Merubah Kebijakan Publik: Panduan Pelatihan Advokasi untuk Organisasi Non Pemerintah* Yogyakarta: Pustaka Pelajar, REaD, dan INSIST.
- Mariam Darus Badruzaman., 1980, *Perjanjian Baku, Perkembangannya di Indonesia*, Medan: USU.
- , 1986, *Perlindungan terhadap konsumen dilihat dari sudut perjanjian baku (Standart Contract)*. dalam BPHN, Simposium Aspek-aspek Hukum Perlindungan Konsumen, Bandung: Bina Cipta.
- , 1994, *Perjanjian Baku, Perkembangannya di Indonesia*, Medan: USU.
- Meray Hendrik Mezak., *Metode dan Pendekatan dalam penelitian hukum*, Jurnal Law Review, Fakultas Hukum Universitas Pelita Harapan, Volume V, No.3. Maret 2006.
- Merry Tjoanda., 2010. *Disertasi: Kedudukan Hukum Pemerintah dalam Kontrak Pengadaan Barang dan Jasa*. Makassar: Program Doktor Ilmu Hukum Pascasarjana Universitas Hasanuddin
- Moh. Koesno., 1995, *Perumusan dan pembinaan cita hukum Azas-Azas Hukum Nasional*, Dalam majalah Hukum Nasional No.2, BPHN: Jakarta
- Muhammad Yasin., 2014, *Panduan bantuan Hukum di Indonesia*, Jakarta: Yayasan Obor.
- Munir Fuady., 1999, *Hukum Kontrak (dari sudut pandang hukum bisnis)*, Citra Aditya, Bandung.
- M. Sadar., dkk, 2012. *Hukum Perlindungan Konsumen Di Indonesia*, Jakarta: Akademia.
- N.E. Algra & H.R.W. Gokkel., 1983. *Kamus Istilah Hukum Fockema Andreae-diterjemahkan oleh: Saleh Adiwinata, et.al.*, Bandung: Bina Cipta.
- Nurhayati Abbas., 1995, *Hukum Perlindungan Konsumen dan Beberapa Aspeknya*, Seminar Nasional Hukum Perlindungan Konsumen, ELIPS-UNHAS.

- O. Notohamidjojo., 1975. *Demi Keadilan dan Kemanusiaan*. Jakarta: BPK Gunung Mulia.
- P. Lindawaty S. Sewu., 2007, *Aspek Hukum Perjanjian Baku dan Posisi Berimbang Para Pihak dalam Perjanjian Waralaba* (Disertasi) Bandung: Program Doktor Universitas katolik Parahyangan.
- Purnadi Purbacaraka et. Al., *Renungan tentang Filsafat Hukum*, Raja Grafindo Persada, Jakarta
- , *Perjanjian Baku dalam Hukum Kontrak Indonesia*. (internet) Jurnal: Wacana Paramita.
- Qirom Syamsuddin Meliala., 1985, *Pokok-pokok Hukum Perjanjian beserta perkembangannya*, Yogyakarta: Liberty.
- Riduan Syahrani., 2009. *Kata-kata kunci mempelajari ilmu hukum*, Bandung: Alumni.
- Ronny Sautma Hotma Bako., 1995, *Hubungan Bank dan Nasabah Terhadap Produk Tabungan dan Deposito*. Bandung: Citra Aditya Bakti.
- Saifullah Bombang., 2006, *Hakikat Keadilan Dalam Poligami (sebuah kajian hukum Islam)*, Disertasi, Program Pascasarjana, Universitas Hasanuddin, Makassar.
- Satjipto Rahardjo., *Ilmu Hukum*. Bandung: Alumni
- Satrio, J., 1992, *Hukum perjanjian (Perjanjian pada umumnya)*, Bandung: Citra Aditya.
- , 1993, *Hukum Perikatan (Perikatan pada umumnya)*, Bandung: Alumni.
- Setiawan., 1987, *Pokok-Pokok Hukum Perikatan*, Bandung: Bina Cipta.
- , 1994, *Kontrak standar dalam teori dan praktek*, Majalah Hukum Varia Peradilan, Thn IX, No.103
- Subekti dan Tjitrosudibyo., 1995. *Kitab Undang-Undang Hukum Perdata*. Jakarta: Pradnya Paramita.
- Sudikno Mertokusumo., 1993, *Bab-bab Tentang Penemuan hukum*. Bandung: Citra Aditya Bakti.
- , 2008, *Kapita selekta Hukum Perlindungan Konsumen di Indonesia*, cetakan 1, Bandung: Citra Aditya.
- Sudikno Mertokusumo., 2009, *Perlindungan Konsumen dan Instrumen-instrumen hukumnya*, edisi revisi cetakan 3, Bandung: Citra Aditya.
- Sidharta., 2000, *Hukum Perlindungan Konsumen Indonesia*, Jakarta: PT. Grasindo.
- Sinclair., John, 1988, *Collins Cobuild English Language Dictionary*, Glasgow: William Collins Sons & Co.
- Soejadi, 1999, *Pancasila Sebagai Sumber Tertib Hukum Indonesia*, Lukman Offset.
- Soerjono Soekanto., 1983, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, PT. Raja Grafindo Persada: Jakarta
- Soemaryono., 1999, *Etika Profesi Hukum*, Kanisius, Yogyakarta
- Subekti., 1992, *Aneka Perjanjian*, Cetakan II, Bandung: Citra Aditya.
- Sudaryatmo, 1999, *Hukum dan Advokasi Konsumen*, Bandung: Citra Aditya.
- Sugiarto, dkk, 2001, *Teknik Sampling*, Jakarta: Gramedia.
- Sugiono, 2001, *Metode Penelitian Administrasi*, Bandung: Alfabeta.
- Suryodiningrat, RM, 1985, *Azas-Azas Hukum Perikatan*, bandung: Tarsito.
- Sutan Remy Syahdeni, 1993, *Kebebasan berkontrak dan perlindungan yang seimbang bagi para pihak dalam perjanjian kredit bank Indonesia*, Jakarta: Institut Bankir Indonesia.
- The Liang Gie. 1982. *Teori-Teori Keadilan*. Yogyakarta: Supersukses.
- Thomas Silk (ed), 1999. *Filanthropi dan Hukum di Asia: Tantangan untuk Indonesia.*, Jakarta: Asia Pasific Philanthropy Consortium
- Veronika Komalawati, 1999. *Peranan Informed Consent dalam Transaksi Terapeutik*. Bandung: Citra Aditya Bakti.
- Wawan Muhwan Hariri, 2011. *Hukum Perikatan.*, Pustaka Setia: Bandung.
- W Friedmann. 1994. *Teori & Filsafat Hukum* (idealism filosofis & problema keadilan) diterjemahkan oleh Muhammad Arifin. Jakarta: Rajawali Pers.
- W.D. Slawson. 1971. *Standard Form Contract and Democratic Control of Lawmaking Power*. Harvard Law Review.(Journal Law)
- Wirjono Projodikoro, 1992, *Perbuatan Melanggar Hukum dipandang dari sudut hukum perdata*, Bandung: Sumur.
- , 2000, *Perbuatan Melanggar Hukum*, Bandung: Mandar maju.
- Yusuf Qardhawi, Dr., 2004, *Peran Nilai dan Moral dalam perekonomian Islam*, Jakarta: Robbani Press.
- Yusuf Shofie, 2000, *Perlindungan Konsumen dan Instrumen-instrumen hukumnya*, Citra Aditya, Bandung.