

COMPARATIVE ANALYSIS OF FACTORS FORMING CONSUMER PROTECTION LAW IN INDONESIA AND THE PHILIPPINES

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Abstract

Consumer protection law reflects the responsibility of the state in ensuring fairness and justice between business actors and consumers. This study analyzes and compares the historical, social, political, economic, and constitutional factors underlying the formation of consumer protection law in Indonesia and the Philippines. The results indicate Both nations demonstrate that consumer protection laws serve not only as legal instruments but also as reflections of social transformation and state accountability.

Keywords: Consumer Protection, Comparative Law, Indonesia, Philippines, Legal Reform

A. INTRODUCTION

Social, political, and economic developments in modern society have brought significant changes to the relationship between businesses and consumers. Increasingly complex trade activities, globalization, and advances in information technology have created new challenges for the national legal system (Marzuki, 2001). In the Indonesian context, the enactment of Law Number 8 of 1999 concerning Consumer Protection represents a significant milestone in the economic legal system, aiming to balance the interests of businesses and consumer rights.

The 1997–1998 Asian economic crisis marked a turning point for legal awareness in Indonesia. The crisis exposed the weakness of oversight and legal instruments to control business practices that harm the public. Many businesses exploited the crisis by selling low-quality products, engaging in price gouging, and even spreading misleading advertising. This situation demonstrated the imbalance in the legal standing between businesses and consumers, necessitating state intervention through firm regulations (Nasution, 2001).

The social and political conditions of the time also contributed to the renewal of national law. The fall of the New Order regime ushered in an era of reform that brought fundamental changes to government structures and legal paradigms. Law was no longer understood merely as a tool of power, but as an instrument of social justice and the protection of citizens' rights (Asshiddiqie, 2006). These reforms led to the birth of various pro-people policies, including the Consumer Protection Law.

Internationally, the Philippines offers an interesting comparison. It was the first country to enact Republic Act No. 7394 of 1992, known as the Consumer Act of the Philippines. This law emerged from the spirit of democratization following the fall of

Ferdinand Marcos in 1986. With different socio-political backgrounds but similar goals, the Philippines and Indonesia both position consumer protection as part of their efforts to achieve economic justice and state responsibility.

B. LITERATURE REVIEW

Legal Protection

This theory explains that the state has an obligation to protect the rights of citizens through fair and effective legal instruments (Hadjon, 1987). Legal protection is defined as the state's effort to guarantee certainty, justice, and benefit to the people from harmful actions. The law is not only repressive through sanctions, but also preventive by creating regulations that prevent rights violations. In the context of consumer protection, this theory emphasizes the importance of legal norms that regulate the responsibilities of business actors and the right to compensation for the public. The main principle is to ensure a balance between the economic interests and social protection of citizens.

Indicators::

- Presence of preventive protection mechanisms (regulation, supervision)
- Presence of repressive protection mechanisms (law enforcement, sanctions, compensation)
- Legal certainty for consumers
- State responsibility for citizens' rights
- Substantive justice in economic relations

Responsive

Responsive legal theory emphasizes that law must be sensitive to social dynamics and societal needs (Nonet & Selznick, 2008). Law is not merely an instrument of state control, but rather a means to achieve social justice through public participation. In this theory, law evolves from a repressive to a responsive stage, where legal norms are formed based on moral values and societal aspirations. Responsive law assumes reciprocal interaction between the government, business actors, and the public in shaping fair policies. In the context of consumer protection, this theory illustrates that the effectiveness of law is determined by the extent to which it reflects justice and the socio-economic aspirations of citizens. Indicators:

- Public involvement in the formulation of legal policy
- Legal flexibility in response to social change
- Law enforcement oriented towards substantive justice
- Accountability and transparency of legal institutions
- Legal response to digital and global economic issues

Social Justice

This theory is based on the idea that justice is a primary value in social and legal order (Rawls, 1971). The state must ensure a fair distribution of rights and obligations so that all citizens have equal opportunities. Within the framework of public law, social justice demands that the law protect vulnerable groups from economic and power inequality. Just law not only enforces procedures but also ensures outcomes that favor the common good. In the context of consumer protection, this theory emphasizes the importance of fair treatment between business actors and consumers in economic transactions as a manifestation of distributive justice and social welfare. Indicators:

- Equal access to justice and legal information
- Protection for economically disadvantaged groups (consumers)
- Public welfare-oriented economic policies

- Integration of moral values and justice into positive law
- Equitable distribution of economic benefits

C. RESEARCH METHODOLOGY

This research employs a normative juridical method with a statutory approach, a historical approach, and a comparative approach. The normative juridical method was chosen because this research focuses on analyzing positive legal norms governing consumer protection in Indonesia and the Philippines. The primary data used are primary legal materials, namely the 1945 Constitution of the Republic of Indonesia, MPR Decrees, Law Number 8 of 1999 concerning Consumer Protection, Republic Act No. 7394 of 1992, and the 1987 Constitution of the Republic of the Philippines.

The historical approach is used to trace the social, political, and economic background that gave rise to consumer protection legal policies in both countries. This approach helps understand the context of social and economic changes that led to the formation of consumer protection regulations (Marzuki, 2001). Meanwhile, the comparative approach is conducted by comparing the legal systems of Indonesia and the Philippines to identify similarities and differences in their constitutional foundations, legal substance, and implementation.

Data were collected through a literature review, analyzing laws and regulations, legal books, scientific articles, and official government documents. The data were analyzed qualitatively and descriptively, interpreting relevant legal norms and linking them to the theory of legal protection as proposed by Hadjon (1987). The analysis was conducted to uncover the substantive meaning of applicable legal provisions and their relevance to consumer rights protection in the context of a modern state governed by the rule of law.

D. RESULT AND DISCUSSION

Historical, Social, Political, Economic, and Constitutional Factors in the Formation of Consumer Protection Law in Indonesia

The development of consumer protection law in Indonesia is inseparable from the dynamics of economic and social development that have developed since the New Order era. The growth-oriented economic development orientation has created an unequal market structure between businesses and consumers (Nasution, 2001). Industrialization and modernization patterns expanded the reach of economic activity, but were not accompanied by adequate protection for consumers. Low-quality products, misleading advertising, and monopolistic practices became increasingly common in the 1980s and 1990s. The state focused on macroeconomic growth, while the social dimension of consumer welfare remained secondary.

This imbalance became even more apparent when the 1997–1998 Asian monetary crisis shook the national economy. The rupiah exchange rate plummeted, inflation soared, and purchasing power declined sharply. These sudden changes altered consumer consumption patterns and exposed the weak position of consumers in a free market system (Marzuki, 2001). Amidst the unstable economic situation, unhealthy trade practices emerged, including hoarding, unreasonable price increases, and the proliferation of counterfeit products. This condition shows that the legal instruments in force at that time were unable to provide effective protection for consumers.

The economic crisis also gave rise to a new awareness within society. The reform movement, which demanded social justice and clean governance, gave rise

to the idea that law should be an instrument for regulating just social relations, not merely a tool for legitimizing power (Asshiddiqie, 2006). The 1998 political reforms opened up space for democratization and public participation, including in the economic sector. The public began to demand transparency from business actors, producer responsibility, and government involvement in ensuring market fairness. From this point on, the concept of consumer protection law was interpreted not only as a regulation of transactions, but as an integral part of citizens' rights to well-being.

This social context is closely related to the development of civil society organizations focused on consumer rights. Institutions such as the Indonesian Consumers Foundation (YLKI) have pioneered the fight for consumer rights through advocacy and public education. This consumer movement exerts moral pressure on the government to prioritize public welfare and safety in economic policy (Hadjon, 1987). The mass media has also played a role in raising social awareness of consumer rights, enabling this issue to become part of the national public discourse. This social awareness has encouraged the government to recognize the importance of the law in protecting consumers from harmful economic practices.

Political factors are a crucial element in the dynamics of consumer protection law formation. The 1998 Reformation not only changed the government system but also the orientation of national legal policy. During this period, the legislative body began actively formulating laws that represent the aspirations of the people, including in the economic and social spheres. The enactment of Law Number 8 of 1999 was part of the legal reform agenda, which demanded legal certainty and justice in economic activities. The role of the People's Consultative Assembly (MPR) is very significant because this institution sets the direction of national development policy through several important decrees, such as TAP MPR No. X/MPR/1998 concerning the Principles of Development Reform and TAP MPR No. IV/MPR/1999 concerning the General Outlines of State Policy (MPR RI, 1998; 1999). These decrees emphasize that economic development must be accompanied by legal reform to protect the public from the abuse of economic power.

The post-reform political climate also created an opportunity for the development of responsive legal discourse. This paradigm emphasizes that law must be sensitive to social change and societal needs. In the context of consumer protection, this paradigm means that law must exist not only as written norms but also as a means of providing substantive justice for citizens. The law must ensure a balance between the interests of business actors and the rights of consumers. This approach later became the basis for the formulation of the Consumer Protection Law, which not only regulates the rights and obligations of the parties but also establishes faster and more affordable dispute resolution mechanisms, such as through the Consumer Dispute Resolution Agency (BPSK) (Rahardjo, 2000).

From an economic perspective, the establishment of the Consumer Protection Law also stemmed from the need for market stabilization and increased public trust. The 1998 crisis demonstrated that a healthy economy depends not only on monetary and fiscal policies but also on the integrity of market actors. Consumer protection is a primary prerequisite for a fair and efficient economic system.

The state is obligated to create a competitive business climate while protecting the public from the abuse of economic power (Nasution, 2001). The Consumer Protection Law aims to address this gap by clearly regulating business responsibilities, overseeing

goods and services, and providing sanctions for violations. This law emphasizes that economic development must be oriented toward public welfare, not just growth.

Constitutional factors provide a strong legal basis for consumer protection. The 1945 Constitution of the Republic of Indonesia contains principles that affirm the state's responsibility for the welfare of the people. Article 27 paragraph (2) states that every citizen has the right to work and a decent living, while Article 33 emphasizes that the economy is structured based on the principle of family for the prosperity of the people. These two articles reflect the state's obligation to prohibit economic practices that harm the public (Asshiddiqie, 2006). Therefore, the enactment of the Consumer Protection Law implements the constitutional mandate, which calls for a just and people-oriented economy.

The People's Consultative Assembly (MPR) decrees also strengthened this constitutional legitimacy. MPR Decree No. II/MPR/1993 concerning the General Outlines of State Policy 1993–1998 emphasized the need to create a healthy business climate and protect consumers from fraudulent practices. This mandate was furthered by MPR Decree No. X/MPR/1998 and MPR Decree No. IV/MPR/1999, which outlined the direction of reform in the economic and legal sectors (MPR RI, 1993, 1998, 1999). Based on this, the government has an obligation to ensure consumer protection as part of implementing the principle of social justice as mandated by Pancasila and the 1945 Constitution.

The relationship between the constitutional and legal foundations of consumer protection aligns with Hadjon's (1987) theory of legal protection, which distinguishes between preventive and repressive protection. Preventive protection is realized through clear regulations on rights and obligations, such as prohibiting the use of standard clauses that are detrimental to consumers. Repressive protection emerges in the form of dispute resolution mechanisms and compensation. Both forms of protection are manifestations of the rule of law, which guarantees certainty, justice, and benefit. Within this framework, the Consumer Protection Law serves as an implementing tool for the constitution, which prioritizes the welfare of citizens.

Overall, these historical, social, political, economic, and constitutional factors combined to produce Law Number 8 of 1999 as a form of responsive law. Law is no longer viewed as an elitist product, but rather as a means of social justice. The enactment of this law marked a paradigm shift from laws that justify power to laws that uphold justice and protect the public interest. Thus, the Consumer Protection Law is not merely an economic regulation, but also a symbol of the shift in the national legal structure toward a system that favors the people.

Comparison of Factors in the Formation of Consumer Protection Laws in the Philippines and Indonesia

The development of consumer protection law in the Philippines has different roots than in Indonesia, although both are based on the spirit of reform and social justice. The enactment of Republic Act No. 7394 of 1992, or The Consumer Act of the Philippines, was the result of a long process influenced by the socio-political dynamics following the fall of the authoritarian regime of Ferdinand Marcos. The political reforms initiated in 1986 through the People Power Revolution marked a significant turning point in Philippine national life. This movement championed government transparency, human rights, and the restoration of the people's role in oversight of power (Lopa, 2002). In this context, consumer protection became part of the effort to create a more democratic government oriented toward the interests of the people.

Historical factors in the Philippines indicate that regulations regarding consumer protection have evolved since the colonial era. During the American colonial period, several provisions governed product standards, product safety, and trade supervision, but these were sectoral and administrative in nature. After independence in 1946, the Philippine government continued to focus on economic development and industrialization without devoting significant attention to consumer protection. However, in the 1970s and 1980s, increasing industrialization and economic liberalization led to the rise of business practices that were detrimental to consumers.

Situasi ini diperparah oleh lemahnya pengawasan pemerintah di bawah pemerintahan Marcos yang otoriter. Konsumen tidak memiliki posisi tawar untuk menuntut tanggung jawab pelaku usaha, sementara media dan lembaga masyarakat sipil tidak bebas mengkritik (Quisumbing, 1993).

Following the fall of Marcos, the Corazon Aquino administration undertook comprehensive reforms to the legal and political systems. One of its agendas was to strengthen the position of civil society in the economy and legal protection. The government recognized that the well-being of the people was determined not only by economic growth but also by the protection of consumer rights. In 1992, the Consumer Act of the Philippines was passed as an implementation of new democratic values that placed the people as the primary subjects of national development. This law is considered a milestone in modern Philippine law because it unified various sectoral provisions into a comprehensive legal framework covering all aspects of goods and services transactions.

Social factors also played a significant role in the formation of consumer protection laws in the Philippines. Post-reform social changes created a new, more critical and legally aware middle class. The public began demanding accountability from business actors and transparency in trade practices. Non-governmental organizations and the media played an active role in exposing cases of consumer abuses, such as product fraud, unfair pricing, and poor quality standards (Alcantara, 2001). This situation fostered a new legal culture in which society placed consumer rights as part of human rights. The government responded by strengthening oversight institutions such as the Department of Trade and Industry (DTI), which plays a role in implementing consumer protection laws, including imposing administrative sanctions and public education.

Politically, the creation of the Consumer Act was also inseparable from political interests and governance reform. The Aquino administration and the legislature at the time viewed economic transparency and accountability as crucial instruments for upholding democracy. Therefore, consumer protection was not merely an economic issue but also a manifestation of an open and participatory political system. The role of political parties in promoting consumer protection policies was not as strong as in Indonesia, but civil society pressure was a key factor. Philippine legislators viewed consumer protection as a form of the state's moral responsibility for the welfare of the people, in line with the spirit of the new 1987 constitution, which emphasized the principle of people empowerment (Republic of the Philippines, 1987).

Economic factors have a significant influence on the implementation of consumer protection laws in the Philippines. The 1997 Asian economic crisis also had a significant impact on the Philippines, although not as severe as in Indonesia. The depreciation of the peso, high inflation, and declining purchasing power demonstrated the vulnerability of the market system to global shocks. In this situation, consumer protection laws became a crucial tool for maintaining domestic economic stability. The

government strengthened oversight mechanisms for businesses and ensured the fair distribution of basic necessities. Furthermore, the Consumer Act provides a legal basis for the government to control unfair trade practices, including price controls, product safety, and mandatory product labeling (Republic of the Philippines, 1992). This legal instrument not only serves to protect consumers but also maintains public confidence in the domestic market.

Constitutionally, the 1987 Constitution of the Republic of the Philippines provides a strong foundation for consumer protection. This constitution explicitly states that the state must promote the general welfare and protect the people from unfair economic practices. Article II, Section 9 states that "The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all." Furthermore, Article XII on National Economy and Patrimony emphasizes that the state must regulate and direct the national economy to serve the general welfare. These principles demonstrate that consumer protection has a direct constitutional basis, as it is explicitly guaranteed in the constitutional text (Lopa, 2002).

In addition to direct provisions, there are also indirect constitutional derivations, namely provisions that indirectly affirm the need for consumer protection through general principles of human rights and social justice. The principle of social justice in all phases of national development in Article II, Section 10 serves as the moral basis for the formation of consumer protection laws. Thus, the Consumer Act of the Philippines can be seen as an implementation of constitutional principles oriented toward welfare and social justice. This differs from Indonesia, where consumer protection is more regulated as a derivative of the economic mandate of the constitution, rather than an explicit provision.

A comparative analysis of Indonesia and the Philippines shows that the two countries share similarities in the socio-political context of consumer protection law formation, but differ in their constitutional approaches and implementation. In Indonesia, consumer protection emerged as a reaction to the economic crisis and the push for more structural legal reform. In the Philippines, similar laws were enacted earlier, as a result of political reform and growing social awareness following the 1986 People's Revolution. This demonstrates that despite their different socio-political backgrounds, their legal policies are both oriented toward protecting the public from market inequality.

Historically, Indonesia took a long time to enact specific legislation governing consumer protection. In contrast, the Philippines codified its consumer law more quickly in 1992. Socially, Filipino public awareness of consumer rights emerged earlier, along with the strong role of civil society organizations. Indonesia only experienced this after the 1998 crisis. Politically, Indonesia experienced pressure for reform involving state institutions, while the Philippines emphasized public participation and social pressure. Economically, the Philippines used consumer protection law as a tool for regulating market stability, while Indonesia positioned it as a means of legal reform and social justice.

Constitutional comparisons are also interesting to examine. The 1987 Philippine Constitution explicitly mandates consumer protection within the constitutional text, while the 1945 Constitution affirms the principle of a people's economy, which is interpreted as the basis for legal protection for the people. In other words, the

Philippines has a direct constitutional basis for consumer protection, while Indonesia relies on indirect constitutional derivation through the principles of social justice and welfare. This difference explains why the implementation of consumer protection laws in the Philippines has tended to be more institutionalized from the outset, while in Indonesia it only developed after the reform era.

Both countries demonstrate that consumer protection is not merely an economic issue but also a reflection of a constitutional commitment to human rights and social justice. Both Indonesia and the Philippines strive to achieve a balance between business interests and consumer rights within their national legal frameworks. However, the future effectiveness of consumer protection depends heavily on the ability of their respective governments to strengthen oversight institutions, increase public legal awareness, and ensure that laws function as instruments of protection, not merely administrative formalities.

E. CONCLUSION

Consumer protection law is a concrete manifestation of the state's responsibility to create social justice and balance in economic activities. The enactment of Law Number 8 of 1999 concerning Consumer Protection in Indonesia was a response to the social, economic, and political changes following the 1998 reforms, which demanded justice, transparency, and protection for the vulnerable in economic relations. Historical background indicates that the inequality between businesses and consumers was a primary factor in the need for legal protection. The social aspect demonstrates increased public awareness of consumer rights, while the political and constitutional aspects emphasize the state's responsibility for the welfare of the people, as enshrined in the 1945 Constitution and the decrees of the People's Consultative Assembly (MPR). Substantially, consumer protection law in Indonesia represents a responsive law that favors the people.

In the Philippines, the enactment of the Consumer Act of the Philippines (Republic Act No. 7394/1992) has a different historical and socio-political background but similar objectives. The law's enactment was influenced by political reforms following the fall of the authoritarian regime of Ferdinand Marcos. Constitutionally, the 1987 Constitution provides a direct constitutional basis for consumer protection as part of the general welfare. Consumer protection law in the Philippines is a key instrument in ensuring social justice and economic democracy.

A comparison between Indonesia and the Philippines shows that both share a common spirit: protecting consumers as the primary subjects of economic activity. However, fundamental differences lie in the constitutional basis and direction of policy implementation. Indonesia positions consumer protection as an indirect constitutional derivation of the principle of a people's economy, while the Philippines explicitly affirms it in its constitution. Both countries demonstrate that consumer protection law reflects the state's commitment to guaranteeing citizens' social and economic rights.

This study recommends improvements tailored to Indonesia's current needs. The final conclusion of this study is: The Indonesian government needs to strengthen the implementation of the Consumer Protection Law by expanding the functions and capacity of supervisory institutions, particularly in responding to the development of the digital economy and cross-border transactions. Technology-based supervision and collaboration with civil society are essential to ensure the law's effectiveness.

A comparative study with the Philippines demonstrates the importance of strengthening the constitutional basis and public legal education so that consumer protection is not merely normative but also becomes part of a just national legal culture.

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