

OBLIGATION TO PROVIDE FOOD SAFETY GUARANTEE BY BUSINESS PLAYERS TO CONSUMERS

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Keywords	Abstract. The problem of food safety in Indonesia already has a legal basis that regulates it, namely Law Number 18 of 2012 concerning Food, and Law Number 8 of 1999 concerning Consumer Protection, which requires businesses to ensure food safety so as not to cause harm to consumers. The purpose of this research is to find out and analyse the obligation to provide food safety guarantees by business actors to consumers. This study uses normative legal research, because it is carried out by examining secondary data, so that the specification of the research used is analytical descriptive, with a normative juridical approach, namely research conducted by examining secondary data. The secondary data was obtained by means of a literature study, then to draw conclusions from the results of the research, a qualitative juridical analysis was used. Based on the results of the study, the obligation to provide food safety guarantees by business actors to consumers based on Law Number 18 of 2012 concerning Food in conjunction with Law Number 8 of 1999 concerning Consumer Protection has not been implemented optimally by business actors, so that it has not provided enough protection for consumers, due to the fact that there are still cases of distribution of food that does not meet food safety standards, thus harming consumers.
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1. INTRODUCTION

National development through rapid industrial growth and development has encouraged the increasing production of goods and services circulating in the community. This is a consequence of the development of science and technology used in machinery, work equipment and chemicals in the production process at various levels and sectors of activity (Tumantara Endipraja, 2016: 5). The development of national development which is progressing more rapidly causes many problems that often occur and arise suddenly within a country, including in Indonesia where there have been an increasing number of legal problems that have arisen recently. Some legal problems and issues that are still often found in social life in society, such as cases or disputes between consumers and business actors that are still rife in people's daily lives, which include problems caused by misleading advertisements or promotions, food safety problems, as well as problems that arise as a result of producers (business actors) who do not include halal writing on each packaging of the food products they produce (Eli Wuria Dewi, 2015: 79).

Abdul Halim Barkatullah (2008: 7) argues that currently there are many cases of consumer violations committed by business actors, starting from product quality that does not guarantee consumer safety, product quality that does not match the advertisements offered, misleading prize information. consumers, and many other violations that are very detrimental to consumers.

Eli Wuria Dewi (2015: 88-89) Along with the development of technology and industry in relation to companies or factories that produce various kinds of food products, so far there are still many problems related to food safety. Food is the most basic human need and its fulfillment is part of the human rights guaranteed in the 1945 Constitution of the Republic of Indonesia as a basic component for realizing quality human resources. Food must always be available in sufficient, safe, quality, nutritious and varied at prices that are affordable to the people's purchasing power, and does not contradict the people's religion, belief and culture. In order to achieve all of this, it is necessary to organize a Food system that provides protection, both for those who produce and those who consume food.

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The foregoing is supported in Article 28A of the 1945 Constitution of the Republic of Indonesia which reads: "Everyone has the right to live and defend his life and livelihood". Meanwhile, Article 28B paragraph (2) states that every child has the right to survival, growth and development and is entitled to protection from violence and discrimination. Regarding food needs, including food that is safe for consumption, can be seen in Article 28C paragraph (1) which states that every person has the right to develop himself through meeting his basic needs, has the right to receive education and to benefit from science and technology, arts and culture, in order to improve quality of life and for the welfare of mankind. Of course, what is meant by basic needs here is food that is absolutely necessary to sustain life and existence. The right to live and defend one's life and livelihood is closely related to food as one of the basic human needs as stated in Article 28C paragraph (1). Therefore, the availability of food for the Indonesian people is the government's obligation to provide it. In order for everyone who consumes the food to be able to live and maintain their life, the food or food ingredients must also be safe, so that this is where food safety is linked to the 1945 Constitution of the Republic of Indonesia.

Efforts by business actors to realize legal protection for consumers by producing food in accordance with the requirements stipulated by law by taking into account food quality, production and distribution facilities as well as product provisions on the market. In addition to physical safety, which means that it does not pose a risk of physical health problems, such as the use of food additives (BTP), it also needs to be seen from a spiritual security perspective. For Muslims, this spiritual security is also placed on the first priority. No matter how attractive and delicious the food is, if it contains ingredients that are not halal, then a Muslim will not eat it. The ingredients referred to are not limited to the main raw materials, but include all materials and facilities involved in processing the food until it is finally served and ready to eat. Even though BTP is no exception, it is only used in small amounts (Indrati & Garjito, 2014: 224). News about the use of enzymes from lard for the production of certain brands of MSG became a sensation a few years ago, or the use of lard's gelatin as an emulsifier in candy making. Cases like this are examples of the sensitivity of the halal food issue.

Food safety is a very important aspect of daily life. Lack of attention to this matter has often resulted in the impact of decreasing the health of its consumers, ranging from food poisoning due to unhygienic storage and serving processes to the risk of developing cancer due to the use of dangerous food additives. Angriyani & Gultom (2021) Guaranteeing that the food consumed by consumers meets safety and health aspects is certainly very relevant to Article 1 of Law Number 8 of 1999 Concerning Consumer Protection (hereinafter referred to as the UUPK), which states: "Consumer protection is all efforts guaranteeing legal certainty to provide guarantees to consumers.

In connection with this food safety issue, Indonesia already has a legal basis that regulates it, originally as regulated in Law Number 7 of 1996 concerning Food, then replaced by Law Number 18 of 2012 concerning Food, and in addition to the existence of Law Number 18 of 2012 concerning Food, Indonesia also has various public and community institutions that have an interest in food, including the Directorate General of Drug and Food Control (Dirjen POM) Ministry of Health, the Food and Drug Monitoring Agency (Badan POM), the Food and Drug Assessment Institute Medicines and Cosmetics of the Indonesian Ulema Council (LPPOM MUI), as well as the Indonesian Consumers Foundation (YLKI), but this does not necessarily make business actors provide security guarantees for the food products they produce and trade to consumers, resulting in still rampant cases of product food that is not safe for consumption, for example is the problem of food poisoning, the presence of food products that are not fit for consumption, for example because they have expired, food products that are not halal or food products (food or drinks) which contain substances chemicals that endanger the health and even the safety of consumers.

The recent emergence of food made from pork has caused unrest in society. In April 2014 meatballs mixed with boar meat were found in the Tambora District, West Jakarta. This case came to light after a complaint was filed by a meatball seller to the West Jakarta Livestock and Fisheries Sub-agency. The meatball seller felt strange about the price of meatballs and meat being offered. The market price of meat is IDR 110,000 per kilogram, while the price offered by meatball traders is only IDR 50,000 per kilogram. The report was then followed up by the Jakarta Head of Livestock and Fisheries

Sub-Dept. by conducting laboratory tests which showed the results that the meatballs studied positively contained wild boar (Fahham, 2014).

In the following month, the case of biscuits containing pork emerged publicly via a Facebook account. Fuziansyah Bachtar, a student at the University of Tokyo, Japan, wrote a Facebook status on May 18 2014 with the words "Be careful when shopping in Indonesia... These imported illegal products are sold freely at Indomaret. Take a look at this, it says: Kanji (contains pork)". The biscuit product in question is called Bourbon Cookie and is sold at Indomaret for Rp. 14,500. There are at least 30 Indomaret stores that sell this product. Bourbon Cookie Biscuits are supplied by CV Roma, located at Medan, North Sumatra.

Cases that befall consumers from business actors can be classified as violations of both Law Number 18 of 2012 concerning Food and Law Number 8 of 1999 concerning Consumer Protection and include unlawful acts due to violations, which occur due to carelessness business actors to be careful in producing a food product. Law Number 8 of 1999 concerning Consumer Protection requires that business actors apart from having to carry out business activities in good faith, they must also be able to create a conducive business climate, without unfair competition between business actors. The obligations of business actors are closely related to the prohibitions and responsibilities of business actors (Sadar, Makarao & Mawadi, 2012: 33-34). The obligation of business actors to ensure the safety of a product so that it does not cause harm to consumers is borne by the business actors, because it is the business actors who know the composition and issues related to the safety of a particular product and the safety in consuming said product.

In order to implement a law and regulation, it must be supported by the awareness of law enforcers (police, prosecutors, judges and advocates) and the legal culture of society, because no matter how good a law or regulation is, it does not necessarily guarantee the implementation of law enforcement in Indonesia, especially if without being supported by the awareness of law enforcers and the legal culture of the community. This means that the existing legal system will run well if the three existing legal instruments, namely legal content (material), law enforcement officials and community culture, must operate simultaneously. These three aspects must work hand in hand to create a food system that provides protection, both for those who produce and consume food. Without this equation of steps, it will cause law enforcement to become lame so that it is unable to achieve justice for the community, especially for consumers.

2. METHOD

This research is normative legal research or library research, because it is carried out by examining library materials or secondary data (Soekanto & Mamudji, 2001: 13-14), therefore the research specifications used are analytical descriptive, namely describing various laws and regulations that in force is associated with legal theories and positive law enforcement practices related to the problem under study (Soemitro, 1990: 97-98). On that basis, the data used as research material is secondary data (Nico Ngani, 2012: 78). To obtain secondary data, data collection is carried out. Data collection was carried out by means of a document study/literature study. Soerjono Soekanto (2006: 21-22) that document studies/library studies are intended to collect secondary data obtained from written data using "content analysis". While how to draw conclusions from the results of research that has been done, qualitative juridical analysis is used. Arranged in the form of a description of the sentence. Juridical, meaning that this research is based on existing laws and regulations as positive law. Qualitative, meaning without using numbers, statistical and mathematical formulas. In addition, an analysis is also carried out on the opinions of experts (doctrine) which aims to get answers to the problems studied.

3. RESULTS AND DISCUSSION

Yestandha & Samsul (2022) The food industry is an industry that plays a very crucial role in human life as a basic thing of life. With the growing development of the economy in this modern era, the pattern of public consumption, especially for the food industry, is increasing every year. Food is the most basic human need and its fulfillment is part of the human rights of every Indonesian. Food must

always be available in sufficient, safe, quality, nutritious and varied at prices that are affordable to the people's purchasing power, and does not contradict the people's religion, belief and culture. In order to achieve all of this, it is necessary to organize a Food system that provides protection, both for those who produce and those who consume food.

Food Organization is carried out to fulfill basic human needs that provide benefits in a fair, equitable and sustainable manner based on Food Sovereignty, Food Self-Reliance and Food Security. This means that in order to meet the needs of the public's Food consumption down to the individual level, the state has the freedom to determine its Food policy independently, cannot be dictated by any party, and Food Business Actors have the freedom to build and carry out operations in accordance with the resources which has. The fulfillment of Food consumption must prioritize domestic production by utilizing local resources and wisdom optimally. To realize this, three main things that must be considered are the availability of food based on optimal utilization of local resources, the affordability of food from physical and economic aspects by the whole community, and the utilization of food or consumption of food and nutrition for a healthy, active life and productive.

Realization of food availability based on the optimum utilization of local resources is carried out by diversifying food and prioritizing domestic food production. Realization of Food affordability from the physical and economic aspects is carried out through managing the stabilization of Staple Food supply and prices, managing Staple Food reserves, and Staple Food distribution. Food utilization or consumption of Food and Nutrition will produce quality human resources as one of the determining factors for the success of development. This is done by fulfilling diverse, nutritionally balanced Food intake, as well as meeting the requirements for Food Safety, Food Quality and Food Nutrition.

Food is a basic human need that cannot be abandoned in everyday life. Without eating and drinking in sufficient quantity and quality, humans will not be productive in their activities. The problem of food also concerns security, safety and health both physically and spiritually (Kristiyanti, 2011: 169). The existence of business actors selling expired food products can be detrimental to consumer rights to comfort, security, safety in consuming goods and services as well as detrimental from a health aspect (Putri, Wahyuni & Aldawiah, 2022).

Food safety is an important factor that must always be considered in people's consumption in everyday life, thus the need for food products apart from having to be available in sufficient quantities, at affordable prices must also fulfill other requirements, namely healthy, safe and halal , so before the food is distributed it must meet the requirements for quality, appearance and taste, then the food must first be guaranteed to be safe for consumption. This means that the food does not contain hazardous materials such as pesticide contamination, heavy metals, pathogenic microbes or contaminated with medicinal substances that can interfere with public trust and confidence (Eli Wuria Dewi, 2015: 95-96).

Food safety is a condition and effort needed to prevent food from possible contamination of biological, chemical and other objects that can disturb, harm and endanger human health. Food safety has become a central issue in trade in food products. Provision of sufficient food accompanied by guaranteed safety, quality and nutrition of food for consumption is non-negotiable in meeting food needs. Consumer demands for food safety have also contributed to increasing producer awareness towards a climate of fair competition that begins with ensuring consumer safety.

Food safety is an important requirement that must be attached to the food that is to be consumed by all Indonesian people. Quality and safe food can be produced from household kitchens as well as from the food industry. Therefore, the food industry is one of the determining factors for the distribution of food that meets the quality and safety standards set by the government. Food safety (food safety) is very important to avoid the occurrence of side effects arising from contamination, misuse of food materials, to food poisoning.

Food safety is not only a world issue but also concerns individuals. Assurance of food safety is a consumer's basic right. Food is one of the most important basic needs and is very essential in human life. Even though the food is attractive, delicious, high in nutrition, if it is not safe to eat, it has practically no value at all. Food safety is always a key consideration in trade, both national trade and international trade. Across the world awareness of food safety is increasing. Food is increasingly important and has a vital role in world trade. Food safety, problems and impacts of quality deviations, as well as strengths,

weaknesses, opportunities and threats in the development of a quality system for the food industry are a shared responsibility as an effort to protect consumers.

With regard to the problems mentioned above, the handling of food safety has begun to receive serious attention from the government. This is indicated by the issuance of Law Number 7 of 1996 concerning Food and Government Regulation Number 28 of 2004 concerning Food Safety, Quality and Nutrition which is the elaboration of Law Number 7 of 1996 concerning Food. This regulation was then followed up with the launching of the Integrated Food Safety System. Government Regulation Number. 28 of 2004 mandates that the Food and Drug Supervisory Agency (BPOM) has the authority to regulate and or determine the requirements, standards, safety for processed and retail food. Meanwhile, the authority of the Ministry of Agriculture, which is implemented by the Food Security Agency, is to regulate and or determine fresh food safety requirements. In 2010, this authority was strengthened by the issuance of Presidential Regulation Number 24 of 2010 which stated that one of the functions of the Food Security Agency was to carry out assessments, preparation, formulation of policies, development, monitoring and supervision of fresh food safety (Article 295 letter d). Then Law Number 7 of 1996 Concerning (State Gazette of the Republic of Indonesia of 1996 Number 99, Supplement to the State Gazette of the Republic of Indonesia Number 3656), was repealed and declared invalid by Law Number 18 of 2012 concerning Food.

The need for food is a basic requirement for humans. This need is closely related to the health and safety of the people who consume it. Therefore, the responsibility of business actors in the food and food processing sector is a big and heavy responsibility so that business actors must provide guarantees for the food safety of their products.

Business actors are obliged to provide Food safety guarantees to Consumers. This is as stated in Article 71 paragraph (1) of Law Number 18 of 2012 Concerning Food, which says that: Everyone involved in the food chain is obliged to control the risk of danger to food, whether originating from materials, equipment, production facilities, as well as from individuals so that food safety is guaranteed. Then in Article 71 paragraph (2) of Law Number 18 of 2012 Concerning Food, it is stated that: Everyone who organizes activities or process of production, storage, transportation and/or circulation of Food is obliged to:

- a. Fulfill Sanitation Requirements; And
- b. Guarantee food safety and/or human safety

Government Regulation Number 28 of 2004 concerning Food Safety, Quality and Nutrition, also requires business actors to prevent contamination of processed food by biological, chemical contaminants and other objects that can interfere, harm and endanger health. Furthermore, the obligations of business actors are clearly regulated in Article 4 letter (a) of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection, namely consumer rights are the rights to comfort, safety and security in consuming goods and/or services and Article 4 letter (c) the right to information that is true, clear and honest regarding the conditions and guarantees of goods and/or services.

Furthermore, the obligation for business violations is clearly regulated in Article 7 of Law Number 8 of 1999 concerning Consumer Protection, which stipulates that the obligations of business actors are:

- a. Have good faith in carrying out its business activities;
- b. Provide correct, clear and honest information regarding the condition and guarantee of goods and/or services and provide an explanation of use, repair and maintenance;
- c. Treating or serving consumers properly and honestly and not discriminatory;
- d. Guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable standards for the quality of goods and/or services;
- e. Providing opportunities for consumers to test and/or try certain goods and/or services and provide guarantees and/or guarantees for goods made and/or traded;
- f. Providing compensation, compensation and/or reimbursement for losses resulting from the use, use and utilization of traded goods and/or services;

g. Providing compensation, compensation and/or reimbursement if the goods and/or services received or used are not in accordance with the agreement.

Thus, it is an obligation for business actors to carry out the obligations as mandated in Article 7 of Law Number 8 of 1999 concerning Consumer Protection in their business activities, this aims to maintain a healthy business climate and keep consumers from being disadvantaged. Meanwhile, the government has a role in supervising the implementation of consumer protection in accordance with Article 30 of Law Number 8 of 1999 concerning Consumer Protection, namely supervision of the implementation of consumer protection, as well as the application of the provisions of the laws and regulations carried out by the government, the public, and non-governmental consumer protection organizations.

The author has argued that with regard to food safety, until now there are still many cases of business actors who cheat in running their businesses, even though most consumers do not fully care about food safety, so they do not make much demands on business actors to produce safe food and fit for consumption. That is what makes business people increasingly ignore the safety and health of consumers, because what they have in mind is to get the maximum profit from the business they are running.

Based on the discussion and analysis above, it can be concluded that the obligation to provide food safety guarantees by business actors to consumers is based on Law Number 18 of 2012 concerning Food in addition to Law Number 8 of 1999 concerning Consumer Protection, namely to prevent food from the possibility biological, chemical and other contaminants that can disturb, harm and endanger human health and do not conflict with religion, belief and community culture so that they are safe for consumption, which is the obligation of business actors, have not been carried out optimally by business actors, so that they have not enough to provide protection for the interests of consumers, due to the fact that there are still unscrupulous business actors who do not fulfill these obligations, so that there are still cases of distribution of food products that do not meet food safety standards, causing harm to consumers.

4. CONCLUSION

The obligation to provide food safety guarantees by business actors to consumers is based on Law Number 18 of 2012 concerning Food in conjunction with Law Number 8 of 1999 concerning Consumer Protection, namely to prevent food from possible biological, chemical and other contaminants that can interfere, harm, and endanger human health and do not conflict with religion, belief, and culture of the community so that it is safe for consumption, which is the obligation of business actors, has not been implemented optimally by business actors, so that it is not sufficient to provide protection for the interests of consumers, due to the fact that there are still unscrupulous business actors who do not fulfill these obligations, so that there are still cases of distribution of food products that do not meet food safety standards, thus causing harm to consumers.

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