

LEGAL PROTECTION OF CONSUMER IN THE HUMAN RIGHTS

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Abstract

Economic development includes various interrelated development sectors. One form of this linkage is related to the protection of consumer rights which is closely related to human rights issues. Thus the importance of the issue of legal protection for consumer rights, this research tries to specifically highlight the concept of human rights, where the main focus is on the role of Law Number 8 of 1999 on Consumer Protection in protecting consumer rights as human rights, as well as consumer advocacy efforts. This research is to answer whether consumers really are sufficiently protected by laws based on human rights. This research is legal research normative, namely research on secondary data obtained through library studies. The results of this study show that the consumer protection law clearly provides protection for consumers in general anymore, but actually provide full protection for consumers in various forms of transactions, both transactions in the form of products and transactions in the form of services that can potentially harm their rights consumer.

Keywords: Legal Protection, Consumer Rights, Human Rights.

A. Introduction

Rapid economic development has resulted in various types of product variations and various goods/services that consumers can

consume, both similar and complementary to one another.¹ By verifying such a wide range of products supported by advances in communication and information technology, there will be an expansion of the flow of transactions for domestic goods/services that are offered in a variety of ways. This happens also in the production of domestic goods/services as well as foreign production.²

Conditions like this in addition to providing benefits for consumers because the need for the desired goods/services can be fulfilled and can be chosen, but on the other hand this phenomenon can result in the position of business actors and consumers being unbalanced. Therefore, this can lead to the position of consumers in an unfavorable position, and become the subject of business activities to reap the maximum profit by business actors. The unfavorable position of consumers can eliminate their rights as human beings, or better known as Human Rights (HAM).³

In Indonesia until now, the struggle, protection, and enforcement of human rights are still focused on political and security issues so that other aspects of human rights have not been touched properly. In fact, in general, the protection and enforcement of human rights in Indonesia is still half-hearted. One aspect of human rights that has not been touched properly in the protection and enforcement of human rights is consumer protection. The implications are even more worrying because the acceleration of community empowerment in the consumer and human rights sectors is still very poorly implemented. Meanwhile, producers are more concerned with the company's profits

¹Adam Flitton dan Thomas E. Currie, "Assessing different historical pathways in the cultural evolution of economic development," 2021, 71–82, <https://doi.org/10.1016/j.evolhumbehav.2021.11.001>.

²Subandi, *Hak dan Kewajiban Pelaku Usaha Terhadap Konsumen Domestik* (Jakarta: Pustaka Setia, 2009), 76.

³Ivo Emanuilov dan Katerina Yordanova, "Business and human rights in Industry 4.0: a blueprint for collaborative human rights due diligence in the Factories of the Future," *Journal of Responsible Technology*, 2022, 1–48. <https://doi.org/10.1016/j.jrt.2022.100028>.

in the midst of increasingly fierce competition and ignore the interests of consumers.⁴

Economic development includes various interrelated development sectors. One form of this linkage, development in the economic field is closely related to human rights issues. If we specialize again, then the economic dimension that has not been touched so far, both in theoretical studies and in practice, is consumer protection from a human rights perspective.⁵ Thus the importance of the issue of legal protection of consumer rights, this study tries to specifically highlight the concept of human rights, where the main focus is on the role of Law Number 8 of 1999 in protecting consumer rights as human rights, and consumer advocacy efforts.

This is based on the consideration that economic activity is a human activity that is fundamental in nature, which concerns the fulfillment of the very basic necessities of life for humans. In this connection, consumers are humans who consume goods and services. Thus, if the question of meeting the needs of human food and clothing becomes one of the most important needs for human life, then it is correct to say that consumer protection is part of human rights. Neglect of consumer protection by itself means a violation of human rights, both at the level of society as a whole and humans individually.

The big question that must be answered by all parties, both economic actors/business actors, and consumers themselves, is how effective Law Number 8 of 1999 in its implementation; Are consumers able to put an equal position in interactions with economic actors/business actors/producers; How many of their rights have been neglected, and whether they have been able to defend or demand them properly and correctly under the pretext of defending Human Rights (HAM).

⁴Ahkam Jayadi, *Hak Asasi Manusia dan Perlindungan Konsumen* (Jakarta: Pustaka Setia, 2002), 45.

⁵Imam Sjahputra, *Perlindungan Konsumen dalam Transaksi Elektronik* (Bandung: PT. Alumnus, 2010), 56.

The importance of this research is to answer the biggest problems of consumer protection law, whether consumers are really sufficiently protected by laws based on human rights. Departing from this background, the formulation of the problem in this research is: "What is the role of Law Number 8 of 1999 (UUPK) on violations of consumer rights in the concept of human rights?"

This research is legal research normative, namely research on secondary data obtained through library studies. Secondary data in this study is in the form of primary legal materials, namely legislation relating to human rights and consumer protection laws, and secondary legal materials in the form of literature and opinions of experts related to the problems studied.⁶

The secondary data collected was then analyzed qualitatively, namely the analysis based on the value, quality, and state of the data obtained. In other words, the search for truth in this study is based on and measured by the quality, value, and state of the data concerned.⁷

B. Results and Discussion

1. Definition of Consumers and Human Rights

Consumers (consumers) are literally defined as people or business actors who buy certain goods or use certain services. Consumers can also be interpreted as something or someone who uses an inventory or a number of goods. There is also a definition of a consumer as anyone who uses goods or services.⁸ The above understanding shows that there is a distinction between consumers as natural persons or natural persons and consumers as business actors or legal entities. This distinction is important to distinguish whether the

⁶Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2003), 32.

⁷Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Press, 2008), 15.

⁸Jayadi, *Hak Asasi Manusia dan Perlindungan Konsumen*, 54.

consumer uses the goods for himself or for commercial purposes (sold, reproduced).⁹

The Civil Code, mentions several terms related to consumers, namely: buyers, tenants, grantees, borrowers, and so on.¹⁰ Law Number 8 of 1999 concerning Consumer Protection (UUPK) Article 1 paragraph (2) defines consumers as: "

Every person who uses goods and/or services available in the community, both for the benefit of himself, his family, other people, and other living beings and not to be traded".

As for the conceptual understanding of human rights, in the history of international legal instruments, at least three generations of development have passed. The first generation, namely the notion of the concept of human rights which has long been developing in the discourse of scientists since the enlightenment in Europe, has risen to become official international legal documents. The peak of the development of the first generation of human rights was at the signing of the Universal Declaration of Human Rights United Nations (UN) in 1948 after previously the ideas for the protection of human rights were stated in historical texts in several countries, such as in the United States with the Declaration of Independence, and in France with the Declaration of Rights of Man and of the Citizen.¹¹

In this first generation conception, the basic elements of the concept of human rights include the principles of human integrity, basic human needs, and the principles of civil and political freedom. In subsequent developments, what is commonly referred to as human rights?. The second generation is the conception of human rights to pursue economic, social, and cultural progress, including the right to education, the right to determine political status, the right to enjoy a

⁹Shofie Yusuf, *Pelaku Usaha, Konsumen, dan Tindak Pidana Korporasi* (Jakarta: Ghalia Indonesia, 2002), 84.

¹⁰Zulham, *Hukum Perlindungan Konsumen* (Medan: Kencana, 2013), 14.

¹¹A. Sembiring, *Sudah Saatnya Hak Konsumen Merupakan Hak Fundamental* (Jakarta: Pustaka Gramedia, 2010), 9.

variety of scientific discoveries, and so on. The peak of this second development was reached with the signing of the International Covenant on Economic, Social, and Cultural Rights in 1996.¹²

Then a new concept of human rights emerged which included the notion of the right to development or rights to development. The right to or for development includes equality of opportunity for advancement which applies to all nations and includes the rights of everyone who lives as part of the life of that nation. The right to or for this development includes, among others, the right to participate in the development process, and the right to enjoy the results of such development, to enjoy the results of economic, social, and cultural development, education, health, income distribution, employment opportunities, and others. so on. The new conception began to develop in 1986 and is referred to by experts as conceptions of the third generation of human rights.¹³

Every violation of human rights starting from the first to the third generation always involves the role of the government which is usually categorized as a crime by the government which is included in the notion of political crime (political crime) as opposed to the notion of crime against the government (crimes against power). Therefore, what is always the target of the struggle for human rights is the power repressive state over its people. In its development, as described above, the dimensions of human rights have become increasingly complex in nature. Where the issue of human rights is not enough to be understood only in the context of vertical power relations, but also includes horizontal power relations, between community groups, between groups of people or communities, and even between one community group in a country and a community group. in another country. This new conception was introduced as the fourth generation conception.¹⁴

¹²Sembiring, *Sudah Saatnya Hak Konsumen Merupakan Hak Fundamental.*

¹³Sembiring, *Sudah Saatnya Hak Konsumen Merupakan Hak Fundamental*

¹⁴Sembiring, *Sudah Saatnya Hak Konsumen Merupakan Hak Fundamental*

2. Legal Protection in Various Perspectives

The word protection means a place of refuge or an act or thing to protect.¹⁵ The Kamus Besar Bahasa Indonesia (KBBI) defines legal protection as; (1) Shelter; (2) Acts (things and so on) protect.¹⁶ According to Kansil, legal protection is a narrowing of the meaning of protection, in this case only protection by law. The protection provided by law is also related to the existence of rights and obligations, in this case, that is owned by humans as legal subjects in their interactions with fellow humans and their environment. As legal subjects, humans have the right and obligation to take legal action.¹⁷

According to Muchsin, legal protection is something that protects legal subjects through applicable laws and regulations and enforces its implementation with a sanction.¹⁸ Theoretically, legal protection can be divided into two, namely: *first*, preventive legal protection, namely legal protection provided by the government with the aim of preventing violations before they occur. Preventive legal protection is preventive in nature, before a person and/or group carries out a negative activity or commits an intentional crime, so as to avoid or negate the occurrence of actions concrete. This is contained in-laws and regulations with the aim of preventing a violation and providing signs or limitations in carrying out an obligation.¹⁹

Second, repressive legal protection, namely the final protection in the form of sanctions such as fines, imprisonment, and additional

¹⁵Yandianto, *Kamus Umum Bahasa Indonesia* (Bandung: CV. M2S, 2000), 319.

¹⁶Tim Penyusun Kamus Pusat Pembinaan dan Pengembangan Bahasa, *Kamus Besar Bahasa Indonesia*, 2 ed., 1 (Jakarta: Balai Pustaka, 1991), 595.

¹⁷CST. Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia* (Jakarta: Balai Pustaka, 1989), 102.

¹⁸Muchsin, "Perlindungan dan Kepastian Hukum Bagi Investor di Indonesia" (Tesis, Surakarta, Program Pascasarjana Universitas Sebelas Maret, 2003), 14.

¹⁹Dahana dan Made Metu, *Perlindungan Hukum dan Keamanan Terhadap Wisatawan* (Surabaya: Paramita, 2012), 58.

penalties given if a dispute has occurred or a violation has been committed. Repressive legal protection aims to resolve a problem or dispute. The dispute resolution is carried out by the competent judicial body. In general, repressive legal protection is manifested in the form of providing various burdens of obligations for the parties involved, followed by sanctions. If these obligations are violated or not fulfilled, then legal sanctions will be imposed.²⁰

Legal protection is one of the most important elements in a state of law. In its development, between a country and its citizens, there will be a reciprocal relationship, which results in the existence of rights and obligations between each other, and legal protection is one of the rights that must be given by a country to its citizens. In this legal protection, the rights and obligations of one party are in conflict with the rights and obligations of the other party. A legal relationship will provide rights and obligations that have been determined by legislation, so that if violated it will result in the violator being prosecuted in court.²¹

Legal protection is generally in the form of a written regulation so that it is more binding and will result in sanctions that must be imposed on those who violate it.²² Legal protection is closely related to the concept of the rule of law because the birth of the concept is the goal of recognizing and protecting human rights. Indonesia is a state of law, and in Indonesian literature, the state of the law is a direct translation of *rechtstaat*. The characteristics of *rechtstaat* are: (a) the existence of a constitution or constitution that contains written provisions regarding the relationship between the rulers and the people the, (b) division of state power is, (c) recognized and the protection of the rights of freedom of the people.²³

²⁰Dahana dan Made Metu, *Perlindungan Hukum dan Keamanan Terhadap Wisatawan*.

²¹Soedjono Dirjosisworo, *Pengantar Ilmu Hukum* (Jakarta: PT. Raja Grafindo Persada, 2001), 131.

²²Sudikno Mertokusumo, *Mengenal Hukum (Suatu Pengantar)* (Yogyakarta: Liberty, 1998), 38.

²³Mertokusumo, *Mengenal Hukum (Suatu Pengantar)*.

These characteristics are implicitly known that legal protection is an absolute thing in a rule of law or *rechtstaat* concept. Legal protection as part of the concept of the rule of law is an effort by the government to ensure legal certainty in providing protection to its people.

3. Consumer Protection in Legislation

Consumer protection is a term used to describe the legal protection provided to consumers in their efforts to meet their needs from things that can harm the consumers themselves. In the legal field, this term is still relatively new, especially in Indonesia.²⁴ In trade transactions, consumers absolutely must be given protection. Consumer Protection has a broad scope including protection of consumers of goods and services, which starts from the activity stage to obtain goods and services to the consequences of using these goods and services. The scope of consumer protection in these two aspects can be explained as follows:²⁵

- a. Protection against the possibility of being handed over to consumers of goods and or services that are not in accordance with what has been agreed upon or violate the provisions of the law. In this regard, including issues concerning the use of raw materials, production processes, distribution processes, product design, and so on, whether in accordance with the standards in respect of safety and security the consumer or not. Also, the issue of how consumers get reimbursed if there is a loss due to using or consuming products that are not in accordance.
- b. Protection against the imposition of unfair terms on consumers. This includes issues and advertising, contract standards, prices, after-sales service, and so on. This is

²⁴Yusuf, *Pelaku Usaha, Konsumen, dan Tindak Pidana Korporasi*, 9.

²⁵Janus Sidabolak, *Hukum Perlindungan Konsumen Di Indonesia* (Bandung: PT. Citra Aditya Bakti, 2010), 10.

related to the behavior of producers in producing and distributing their products.

In Indonesia, the significance of regulating consumer rights is through Law Number 8 of 1999 concerning Consumer Protection (UUPK). This law is part of its implementation as a welfare state because the 1945 Constitution in addition to being a political constitution can also be called an economic constitution, namely a constitution that contains the idea of a welfare state that has grown and developed due to the influence of socialism since the nineteenth century.²⁶

The presence of UUPK is a milestone in the development of consumer protection law in Indonesia. It is recognized that this law is neither the first nor the last, because previously there have been several legal formulations that protect consumers scattered in several laws and regulations. This law regulates consumer protection policies, both regarding material law and formal law regarding consumer dispute resolution.²⁷

Through Law no. 8 of 1999 on Consumer Protection (UUPK) set 9 (nine) consumer rights, namely:

- a. Right to comfort, security, and safety in consumption of goods and/or services
- b. right to choose the goods and / services and obtain goods and/or services are appropriate with the exchange rate and the promised conditions and guarantees
- c. Right to correct, clear, and honest information regarding the conditions and guarantees of goods and/or services
- d. Right to have their opinions and complaints heard on the goods and/or services used
- e. Right to get proper consumer protection advocacy
- f. The right to obtain consumer guidance and education The

²⁶Jimly Asshiddiqie, "Undang-undang Dasar 1945: Konstitusi Negara Kesejahteraan dan Realitas Masa Depan" (Penguahan Jabatan Guru Besar Tetap Madya, Jakarta: Fakultas Hukum Universitas Indonesia, 1998), 1-2.

²⁷Inosentius Samsul, "Perlindungan Konsumen Kemungkinan Penerapan Tanggung Jawab Mutlak" (Jakarta, 2004), 20.

- g. right to be treated or served correctly and honestly and not discriminatory
- h. Right to receive compensation, compensation, and/or replacement, if the goods and/or services received are not in accordance with the agreement or not properly
- i. Rights are regulated in the provisions of other laws and regulations.

The rights in the UUPK above are the elaboration of the articles that are characterized by the welfare state, namely Article 27 paragraph (2)²⁸ and Article 33²⁹ of the Constitution of the Republic of Indonesia.³⁰

The importance of legal protection for consumers is due to the weak bargaining position of consumers. Legal protection for consumers requires siding with a weak bargaining position (consumers).³¹ As stated by Nurmadjito, in his book titled *Readiness Tool Legislation on consumer protection in the face of the Era of Free Trade*, as quoted by Husni Syawali and Neni Sri Imaniyati, that the setting of legal protection for consumers is done by:

- a. Creating a consumer protection system contains access and information, as well as guarantees legal certainty
- b. Protecting the interests of consumers in particular and the interests of business actors
- c. Improving the quality of goods and services

²⁸Article 27 paragraph (2) reads: "Every citizen has the right to work and a decent living for humanity".

²⁹Article 33 reads: "(1) The economy is structured as a joint effort based on the principle of kinship; (2) Production branches which are important to the state and which affect the livelihood of the people are controlled by the state; (3) The earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people".

³⁰Refer to the "Considering" preconditions in Law Number 8 of 1999 concerning Consumer Protection, State Gazette of the Republic of Indonesia of 1999 Number 42, Supplement to the State Gazette Number 3821

³¹Sudaryatmo, *Hukum dan Advokasi Konsumen* (Bandung: PT. Citra Aditya Bakti, 1999), 90.

- d. Providing legal protection to consumers from practices deceptive and misleading business
- e. Integrating the implementation, development, and regulation of legal protection for consumers with other sectors protection in other fields

As a system, the implementation of legal protection for consumers cannot be separated from the context of national development. It can be said that there is an integrated concept in the Consumer Protection Act (UUPK), in the implementation of legal protection for consumers. When compared with the considerations of the UUPK, the background of legal protection for consumers is based on the motives that can be abstracted as follows:

- a. Realizing economic democracy
- b. Encouraging diversification of goods and or services products as a means of improving the welfare of the wider community in the era of globalization, as well as ensuring its availability
- c. Economic globalization must continue to ensure the improvement of people's welfare and the assurance of quality, quantity, the safety of goods and or services
- d. Increasing the dignity of the consumers through the law (BFL) to create the balanced protection of the interests of consumers and businesses in a healthy economy.

Formulation understanding of consumer protection on the line that says "*all efforts to guarantee legal certainty*", are expected to serve as a bulwark to eliminate arbitrary actions that harm business actors only for the sake of consumer protection.³² The principle of legal protection for consumers in Article 2 of the UUPK, namely the principles of benefit, justice, balance, security, consumer safety, and legal certainty. It can be said that legislators realize that legal protection for consumers is like a coin that has two different sides, one side is a

³²Ahmadi Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen* (Jakarta: PT. Raja Grafindo Persada, 2004), 1.

consumer, while the other side is a business actor, and it is impossible to use only one side without using both sides at once.³³

In addition to the Consumer Protection Law, consumer law is found in various applicable laws and regulations.³⁴ As part of the national legal system, one of the provisions of the UUPK, in this case, Article 64 (Chapter XIV Transitional Provisions), can be understood as an implicit affirmation that the UUPK is a special provision (*lex specialis*) to the provisions of laws and regulations that existed before the UUPK, according to the principle of *lex specialis derogat legi generali*. This means that provisions outside the UUPK remain valid as long as they are not specifically regulated in the UUPK and/or do not conflict with the UUPK.³⁵ Although this law is called UUPK, it does not mean that the interests of business actors are not taken into account, because the existence of the national economy is largely determined by business actors.

As for dispute resolution, to defend consumer rights, it is regulated in Article 45 of the UUPK, which states that:³⁶

Dispute resolution can be pursued through court or out of court based on the voluntary choice of the disputing parties.

Settlement of disputes out of court can be reached through BPSK (Consumer Dispute Settlement Agency) whose duties and authorities include, among others, the implementation of handling and resolving consumer disputes, by means of mediation or arbitration or conciliation, which apart from being a media for dispute resolution can also impose administrative sanctions for business actors who violate certain prohibitions imposed on business actors.

³³Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen*.

³⁴AZ Nasution, *Hukum Perlindungan Konsumen* (Jakarta: Diadit Media, 2002), 30.

³⁵Yusuf, *Pelaku Usaha, Konsumen, dan Tindak Pidana Korporasi*, 29.

³⁶Yusuf, *Pelaku Usaha, Konsumen, dan Tindak Pidana Korporasi*.

4. Consumer Protection in the Conception of Human Rights

Consumer protection is a term used to describe the legal protection provided to consumers in their efforts to meet their needs from things that can harm the consumers themselves. Consumer protection is all efforts that guarantee legal certainty to provide protection to consumers. Considering how important consumer rights are, thus giving birth to the perception that consumer rights are the Fourth Generation of Human Rights which is the keyword in the conception of human rights in the development of mankind in the future.³⁷

The issue of human rights is not enough to be understood only in the context of vertical power relations, but also includes power relations horizontal, between community groups, between people or groups of people, and even between one community group in a country and another community group. other countries. Consumer rights in this broad sense can be referred to as a new dimension of human rights that is growing and must be protected from the possibility of abuse or arbitrary action in horizontal power relations between producers and consumers.³⁸

Legal protection for consumers is a form of human rights granted by the state. Legal protection for consumers from a human rights perspective is to protect consumer rights. The growing awareness of the state to provide legal protection for consumers from a human rights perspective because they are in a weak bargaining position.³⁹ But

³⁷Sembiring, *Sudah Saatnya Hak Konsumen Merupakan Hak Fundamental*, 8.

³⁸Sembiring, *Sudah Saatnya Hak Konsumen Merupakan Hak Fundamental*.

³⁹Paulee A. Coughlin, "The Movement of Consumer Protection in the European Community: A Vital Link in the Establishment of Free Trade and a Paradigm for North America," *International and Competition Law Review*, 1994, 162.

broadly speaking, consumer rights can be divided into three rights which are the basic principles, namely:⁴⁰

- a. Rights that are intended to prevent consumers from harm, both personal loss and property loss.
- b. The right to obtain goods and/or services at a fair price
- c. The right to obtain an appropriate solution to the problems faced

A quite encouraging development is when the state is present in the form of a law that is linked to human rights specifically related to the protection of consumer rights. As stated in the 1945 Constitution Article 1 paragraph (3), that the state of Indonesia is a state of law. In essence, the rule of law has four main elements, namely: a) the government in carrying out its duties and obligations must be based on laws or statutory regulations, b) the existence of guarantees for human rights, c) the division of power within the state, d) the existence of supervision of the judiciary.⁴¹ Of the four main elements, one of which is the state guarantees the protection of human rights in the constitution.

If consumers really want to be protected, then consumer rights must be fulfilled, both by the state and business actors, because the fulfillment of consumer rights will protect consumers' losses from various aspects. What needs to be questioned is where these rights are obtained, how these rights can be enjoyed, maintained and when there is a guarantee of protection. Universally, these rights are rights inherent in every consumer.

To answer the questions above, universally, the United Nations (UN) issued Guidelines for Consumer Protection of 1985, which states that:

Consumers wherever they are, from all nationalities, have basic social rights.

⁴⁰Ahmadi Miru, "Prinsip-prinsip Perlindungan Hukum Bagi Konsumen di Indonesia" (Disertasi, Surabaya, Program Pascasarjana Universitas Airlangga, 2000), 140.

⁴¹Sjahputra, *Perlindungan Konsumen dalam Transaksi Elektronik*, 62.

The purpose of these basic rights are Human Rights, which consist of: a) the right to obtain clear, correct, and honest information; b) the right to obtain compensation; c) the right to obtain basic human needs (sufficient food and shelter); d) the right to a good and clean environment and the obligation to protect the environment; and e) the right to basic education. The United Nations urges all its members to enforce these consumer rights in their respective countries.⁴²

As for the regulation on consumer protection in Indonesia, it has been started since the Dutch East Indies era, although some of these regulations are no longer enforced. In some laws, there are also several provisions that are used to protect consumer rights. After the period of independence of the Republic of Indonesia until 1999, Indonesian law did not recognize the term consumer protection. However, the government is trying to fulfill the elements of consumer protection through existing laws and regulations even though some of these laws and regulations have not met the criteria for law enforcement that should be firm and provide legal certainty about consumer rights as human rights.⁴³

The fact that is happening now is that the proportion of consumers' rights to obtain justice is often eroded by the monopolistic power of business actors. To counter this, the concept of thinking emerged which aims to strengthen consumer rights. The importance of consumer rights is so important that it gives rise to the opinion that consumer rights are the 'fourth generation of human rights, which must be the keyword for the development of mankind in the future.⁴⁴ Once the importance of consumer rights to be protected, the state-issued various rules that can be used as a source of law for the protection of

⁴²Nasution, *Hukum Perlindungan Konsumen*, 7.

⁴³Saifuddin dan Riza Laely Ikayanti, "Perlindungan Hak-hak Konsumen E-Commerce dalam Perspektif Hukum Positif Indonesia dan Konvensi Internasional," *Supremasi Hukum* 3, no. 1 (t.t.): 65.

⁴⁴Jimly Asshiddiqie, "Dimensi Konseptual dan Prosedural Kemajuan Hak-hak Asasi Manusia Dewasa ini, Perkembangan ke Arah Pengertian Hak Asasi Manusia Generasi Keempat" (Diskusi Terbatas tentang Perkembangan Pemikiran mengenai Hak Asasi Manusi, Jakarta: The Habibi Center: Institute for Democracy dan Human Rights, 2000), 12.

consumer rights in Indonesia. Such as: a) Law Number 8 of 1999 concerning consumer protection, b) Law Number 11 of 2008 concerning Information and Electronic Transactions, c) Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition.

From the several laws above, it is clear that the consumer protection provided is no longer general, but actually provides full protection for consumers in various forms of transactions. Thus, the concept of human rights protections contained in the 1945 Constitution and other laws relating to consumer protection can truly protect the interests of consumers who transact, both transactions in the form of products and transactions in the form of services that can potentially harm the rights of consumers.

C. Conclusion

The Consumer Protection Act is a legal instrument that is positively designed to guarantee legal protection for consumers. The law also aims to prevent the emergence of business activities that lead to *unfair business and practices* that can grow rapidly in a liberal economic system and a free trade system. If the term *unfair business and practices* can be used in the sense of “trade practices” *unreasonable*, it can be said that the Consumer Protection Act is one of the legal instruments that can prevent and eliminate potential trade practices that are held unfairly. Legal protection is closely related to the concept of the rule of law because the birth of the concept is the goal of recognizing and protecting human rights. Legal protection is the protection of the dignity and worth of and the recognition of human rights possessed by legal subjects in a legal state based on the legal provisions in force in that country in order to prevent arbitrariness. Legal protection as part of the concept of the rule of law is an effort by the government to ensure legal certainty in providing protection to its people. On the other hand, legal protection also means all efforts to protect a person's interests by giving power to that person to take actions that can fulfill his interests.

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