

Legal protection of consumers against e-commerce digital transactions review of state authority in guaranteeing citizens' constitutional rights

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Abstract: The rapid development of information and communication technology has transformed the trade sector through the emergence of digital transactions. In this context, there has been a shift in the relationship between businesses and consumers, giving rise to new challenges in consumer rights protection. The complexity and intensity of digital transactions open up opportunities for exploitative practices that harm consumers as the more vulnerable party. The main issue examined in this paper is how the state, from a constitutional law perspective, exercises its authority to ensure legal protection for consumers in digital transactions as part of fulfilling the constitutional rights of citizens. This study employs a normative legal method with a qualitative analytical approach, through literature review and grammatical and systematic legal interpretation. The results indicate that consumer protection in digital transactions is an integral part of the principles of the rule of law and human rights protection as stipulated in Article 28D paragraph (1) of the 1945 Constitution. The state is obligated to actively implement adaptive regulations, strong oversight, and consumer education to create a fair, safe, and sustainable digital trade ecosystem in accordance with the values of social justice and humanity as enshrined in Pancasila.

Keywords: Consumer Protection; Constitutional Rights; Digital Transactions; E-Commerce; State of Law

1. Introduction

The rapid development of information and communication technology has driven a major transformation in the trade sector, with the emergence of digital transactions as an integral part of modern economic activity. The rapidly growing trading system has caused the intensity of business competition to increase significantly. Every business actor is competing to find loopholes in order to gain as much profit as possible. Unfortunately, in an effort to achieve these profits, it is not uncommon for business actors to ignore the rights of consumers as the more vulnerable party in digital transactions.

This condition creates an urgency to increase legal protection for consumers, so that their rights are respected and upheld. However, in implementing such protection, the state must also be able to maintain a balance so that the existence of business actors remains protected, considering that this sector is one of the important pillars of the national economy. The problem of consumer protection, especially in digital transactions, is a dynamic and complex issue, and is predicted to continue to be a public discourse along with technological developments and new transaction models in the future.

The regulation of consumer protection in Indonesia actually has its roots in the Dutch East Indies colonial era. Various regulations at that time contained elements of consumer protection, although most of these regulations have now been revoked or are no longer relevant to modern socio-economic conditions. Post-independence, prior to 1999, the term "consumer protection" was not explicitly recognized in the Indonesian legal system. Nevertheless, the state's efforts to fulfill the protection of consumer rights are still pursued through various legal instruments scattered in various laws and regulations, although they are still partial and do not provide strong legal certainty. (Saefuddin, 2014).

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Consumer conditions in facing the digital trade era are increasingly complex. If they are not careful in choosing goods and/or services, consumers have the potential to become the object of exploitation by irresponsible business actors. Without realizing it, consumers often take for granted the goods and/or services offered through digital platforms, without understanding the rights attached to them. The problems faced by consumers today are no longer just about choosing the best product, but also include legal awareness from all parties - business actors, consumers, and the state about the importance of protecting consumer rights.

The lack of consumer awareness of their rights is one of the main factors in the high level of consumer exploitation. This phenomenon is closely related to the low level of consumer education and the lack of information about their rights in digital transactions. The government, as the main actor in the legal system, has a great responsibility not only as a regulator, but also as an executor and supervisor of the implementation of consumer protection policies. Unfortunately, until now, the government's seriousness in providing legal protection to consumers in the digital world is still considered not optimal, amid increasingly complex and adaptive business practices.

In this context, consumers as users of goods and/or services have a number of rights and obligations that must be known and understood. Knowledge of consumer rights is crucial so that consumers are able to act critically and independently, and be responsive to all forms of injustice experienced in digital transactions. This awareness will encourage consumers to actively fight for their rights through legal channels and other dispute resolution mechanisms.

Consumer rights are essentially part of human rights that must be protected. This right not only receives protection at the national level, but has also become a concern of the international community through various international instruments on consumer protection and electronic commerce. Indonesia as a state of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution, is obliged to guarantee the protection of human rights, including consumer rights in digital transactions. In a democratic state of law, the protection of human rights must be enforced through fair and effective mechanisms.

State of Law (*rechstaat*), the state aims to organize legal order, namely order that is generally based on the law found in the people. The state of law maintains legal order so that it is not disturbed and so that everything runs according to the law. (Juniarso Ridwan & Achmad Sodik Sudrajat, 2009) In the perspective of Julius Stahl's thoughts on the concept of a state of law (*rechtstaat*), there are four fundamental elements that must be fulfilled, namely: (1) Protection of human rights, (2) Division of powers, (3) Government based on law, and (4) State administrative justice. (Jimly Asshiddiqie, t.t.) Based on this view, consumer protection is an integral part of human rights protection that must be guaranteed by the state through effective legal and institutional instruments.

In facing the challenges of digital transactions that are growing so rapidly, the state has the constitutional authority to ensure consumer protection as part of the fulfillment of citizens' constitutional rights. This protection is not only limited to the aspect of preventing business practices that harm consumers, but also includes the state's obligation to form regulations that are adaptive to technological developments, as well as building an effective monitoring and dispute resolution system.

Based on the above description, it is interesting to examine further how the state, within the framework of constitutional law, exercises its authority to provide legal protection to consumers in digital transactions, as part of the guarantee of citizens' constitutional rights. This research is expected to make theoretical and practical contributions in developing the concept of constitutional-based consumer legal protection in the era of digital trade.

2. Materials and Methods

This study uses a normative legal research method, which focuses on analysing written legal norms, such as legislation, legal principles, and doctrines. Johnny Ibrahim explains

that this approach aims to find legal truth scientifically through normative logic.(Ibrahim, 2006)

The approaches used include :

- a. A legislative approach, to examine positive legal norms;
- b. A conceptual approach, to understand the meaning and purpose of legal protection for digital consumers;
- c. A historical-comparative approach, by comparing Indonesian legal regulations with those of other countries such as the European Union and the United States.

Legal interpretation methods consist of:

- a. Grammatical interpretation, which is interpretation based on the linguistic meaning in legislation;
- b. Systematic interpretation, which connects one article with another to obtain a comprehensive understanding.(Sutrisno & Permana, 2022)

Data collection techniques were carried out through documentation studies, indirect observation, and literature studies of primary and secondary legal sources. Primary legal sources include the 1945 Constitution (particularly Articles 28D and 28G), the Consumer Protection Law (Law No. 8 of 1999), and the ITE Law (Law No. 11 of 2008 in conjunction with Law No. 19 of 2016). Meanwhile, secondary legal sources include books, indexed journals, expert opinions, and international documents such as UNCTAD and OECD.

Data analysis was carried out using a qualitative approach and deductive reasoning, namely drawing conclusions from general norms to specific cases. The data was analysed using content analysis to reveal the relationship between legal norms and state authority in guaranteeing constitutional protection for consumers in digital transactions.(Mpesau, 2024).

3. Results and Discussion

3.1. E-Commerce Practices and Challenges to the Protection of Consumer Constitutional Rights in Digital Transactions in Indonesia

Table 1. Conceptual Model of the State's Position in Consumer Protection in the Digital Legal Relationship Scheme

Aspect	Digital Business Operators	Consumers	Country (Government & Regulators)
Legal Position	Platform owners, digital service providers (e.g., marketplaces, fintech, e-wallets)	Platform users, buyers of digital products/services	Guarantor of citizens' constitutional rights, regulator, and digital market supervisor
Rights and Obligations	Entitled to conduct business, use digital strategies (AI, algorithms) Obligated to protect consumer data, provide accurate and transparent information.	Entitled to privacy, data security, price transparency, and fair service Obligated to use services in accordance with the terms and conditions.	Obligated to provide legal protection (Article 28D of the 1945 Constitution), create regulations, supervise business practices, and resolve disputes fairly.
Digital Legal Risks	Data misuse, price manipulation (dynamic pricing), misleading advertising,	Data loss, psychological exploitation, legal ignorance, economic loss.	Accountability for public protection, regulatory or supervisory

	contractual imbalance.		failure, constitutional conflict.
Protection Instruments	Self-regulation, terms and conditions of service, data policy, legal compliance	Right to complain, compensation, and legal protection (Law No. 8/1999, ITE Law, PDP Law)	Law No. 8 of 1999 (Consumer Protection), Law No. 19 of 2016 (ITE), Law No. 27 of 2022 (PDP), Government Regulation No. 80 of 2019 (E-commerce), the principles of Pancasila, and the principle of the rule of law (Rechtstaat).
Functions of the State	-	-	Digital legal regulator (laws and regulations) Guarantor of constitutional justice (right to legal protection, Article 28D paragraph (1)) Provider of preventive protection (Hadjon, 1987) Enforcer of procedural justice in the digital economy (due process of law).

3.2. The Urgency of Legal Regulation of Consumer Protection in E-Commerce in Guaranteeing Citizens' Constitutional Rights

Based on the description given earlier, a strong and adaptive legal regulation towards the development of e-commerce is a necessity in order to ensure effective consumer protection. Provisions regarding consumer protection in general have been regulated in Law Number 8 Year 1999 on Consumer Protection, but in the context of e-commerce, its implementation still faces various obstacles. Constitutionally, consumer protection is part of human rights guaranteed by the state, as stated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that "Every person shall have the right to recognition, guarantees, protection, and certainty of a just law and equal treatment before the law." Therefore, the state has a legal responsibility to ensure consumer protection, including in digital trade through electronic systems (e-commerce).

From a constitutional law perspective, the state's obligation to protect consumers in e-commerce is closely related to the theory of the rule of law (Rechtstaat) which emphasizes the importance of the rule of law, protection of human rights, and the principle of legality. The state in this position cannot be passive towards the development of information technology that affects the pattern of public transactions, because in a modern legal state, the law must be progressive and adaptive to social dynamics. (Jimly Asshiddiqie, 2006) In this case, public service theory also emphasizes that the state acts as a public service provider that is obliged to ensure the balance of relations between business actors and consumers.

In the perspective of legal principles, there are several important principles that become the basis for the regulation of consumer protection in e-commerce, namely the principle of justice, the principle of legal certainty, and the principle of balance. The principle

of justice demands equal protection for consumers from the domination of business actors who have higher bargaining power. (Maria Farida Indarti, 2007) The principle of legal certainty encourages clarity in regulation so that there is no vacuum or overlapping rules. Meanwhile, the principle of balance requires the formation of electronic contracts to be carried out on the basis of equality and voluntary agreement, not based on standardized clauses that harm consumers. (Nur Basuki Minarno, 2022)

Juridically, the urgency of regulatory reform is reflected in the limited scope of Government Regulation No. 80/2019 on Trading Through Electronic Systems, which has not specifically regulated digital platform-based consumer protection standards. (Peraturan Pemerintah Nomor 80 Tahun 2019) The lack of comprehensive harmonization between the Consumer Protection Law, ITE Law, and PP E-Commerce results in uncertainty in the implementation of legal protection for digital consumers. Therefore, new sectoral regulations or revisions to existing regulations are needed to be more responsive to the complexity of e-commerce.

Theoretically, the importance of legal protection for e-commerce consumers can be explained through Philipus M. Hadjon's theory of legal protection, which distinguishes between preventive and repressive protection. Preventive protection aims to prevent violations, while repressive relates to the settlement mechanism when violations have occurred. (Philipus M. Hadjon, 1987) In the context of e-commerce, preventive protection is important considering that consumers do not have balanced information with business actors.

Philosophically, legal regulation of e-commerce must be based on the basic values of Pancasila, especially the second principle, namely just and civilized humanity. This value mandates that the law be present to protect human rights from structural injustice due to information inequality in digital transactions. Consumer protection is not just a private matter, but an instrument of the state in realizing social justice. (Kaelan, 2013)

Thus, researchers argue that the urgency of legal regulation of consumer protection in e-commerce is an integral part of strengthening the national legal system in guaranteeing the constitutional rights of citizens. The state, as the bearer of constitutional responsibility, must immediately form comprehensive and justice-oriented regulations in the face of the growing complexity of digital transactions. Legal protection in e-commerce not only ensures fair transactions, but also creates constitutional legitimacy and public confidence in the rule of law in a modern democratic state.

4. Conclusions

The development of e-commerce in Indonesia has had a significant impact on transaction patterns and legal relationships between businesses and consumers. The increasing intensity of digital transactions requires the protection of consumers' constitutional rights, particularly in terms of data privacy, transaction security, and fairness in service. The state, as the custodian of the constitution and the principle of the rule of law (*Rechtstaat*), has the responsibility to ensure that every citizen receives fair, certain, and equal legal protection, as stipulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Within this framework, the state is obligated to develop adaptive and progressive regulations in response to technological dynamics, while ensuring that the principles of fairness, legal certainty, and balance are consistently applied in e-commerce practices. Key challenges include the exploitation of personal data, aggressive digital marketing, and non-transparent pricing practices, all of which have the potential to violate consumers' fundamental rights. Therefore, strengthening preventive and repressive protections, as proposed by Philipus M. Hadjon, is crucial. Philosophically, consumer protection in e-commerce embodies the values of justice and civilization according to Pancasila. Strong and integrated regulations across legal sectors are an absolute requirement to ensure social justice and the constitutional legitimacy of the state. Thus, the state must actively engage through comprehensive regulations, effective oversight, and public education to create a fair, safe, and sustainable e-commerce ecosystem.

As a recommendation, further research should focus on developing a legal protection model that is responsive to digital innovation, including comparative analysis with consumer protection systems in other countries that have already comprehensively regulated e-commerce. Additionally, a multidisciplinary approach between law, information technology, and personal data protection can enrich the national regulatory framework to ensure the long-term effectiveness of consumer protection.

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