

Consumer Legal Protection for Whitening Cream Cosmetic Products

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Abstract

This research aims to determine the implementation of the principles of justice and supervision of consumer protection in protecting consumers who use whitening cream cosmetic products (from the perspective of legal justice theory). The urgency of this research was initiated because many whitening cream products are circulating that contain dangerous ingredients and are sold at low prices. The research involved takes a juridical-normative approach. Techniques for data collection include literature studies and observations at BPOM Pekanbaru City. The principle of justice in consumer legal protection has not been effectively implemented by Article 2 paragraph (2) of the UUPK. One of the factors is a lack of effective compensation. The government merely issues administrative and criminal sanctions without being obliged to compensate for damages or restore the health of the skin affected by products. Then, according to UUPK rules, the BPOM does not have the authority to supervise the execution of consumer protection (Article 30 (1) UUPK). As a result, the Pekanbaru City BPOM's supervisory function on this research issue is ineffective, leaving consumers with insufficient facilities and infrastructure, free legal aid, and quick access to settle consumer disputes with business actors.

Keywords: Consumer Protection; Legal Justice Whitening Cream Cosmetic Products

1. INTRODUCTION

Law Number 8 of 1999 Concerning Consumer Protection (hereinafter referred to as the Consumer Protection Law) aims to increase consumer awareness, ability, and independence in protecting themselves, as well as consumer empowerment in selecting, determining, and demanding their consumer rights. This is consistent with the claim that the law exists to protect human interests and must be enforced to protect those interests. Law enforcement can be conducted in a normal and peaceful manner, as well as in response to legal infractions. In other words, law enforcement re-enforces laws that have been violated.¹ Law enforcement makes the law a reality. However, if law enforcement is viewed through the perspective of consumer protection law, an imbalance between law and justice emerges in practice, as evidenced by the considerable divergence between consumer and business actor positions, particularly among consumers of whitening cream cosmetics. Furthermore, the author believes that customers (especially women) should be able to safely utilize whitening cream cosmetics products. But now, whitening cream cosmetics products contain dangerous ingredients that are being traded and sold on the market both directly (in stores) and online. therefore,

¹ Hasaziduhu Moho, "Penegakan Hukum Di Indonesia Menurut Aspek Kepastian Hukum, Keadilan Dan Kemanfaatan," *Majalah Ilmiah Warta Dharmawangsa* 13, no. 1 (2019), <https://doi.org/https://doi.org/10.46576/wdw.v0i59.349>.

considering that not all of the substances found in face-whitening cosmetic products are safe for customers to apply, it is possible that these products besides making the consumers look more lovely and white, that product will cause skin cancer.

Meanwhile, according to data that the writer gathered from various sources, there were 181 different varieties of unsafe whitening cream cosmetics (due to the presence of toxic substances) on the market. According to BPOM, this quantity was gathered from the period of mid-2022 to October 2023, and it is projected that the findings of whitening cream cosmetics products amounted to 1.2 million goods with an economic worth of IDR 42 billion (forty-two billion rupiah).² Riau Province has one of the largest distribution locations for whitening cream cosmetics containing this harmful component, notably Kampar Regency, Rokan Hulu Regency, and the city of Pekanbaru. It is reported that from July 19-28, 2022 to October 2023, Pekanbaru City BPOM launched inspections on dealers and distributors of whitening cream cosmetics products and discovered 1,826 whitening cream cosmetics products contain dangerous ingredients with an economic value of Rp.38,000,000 (thirty-eight million rupiah).³

In addition, customer legal protection has been researched by some researchers, pertinently in Indonesia. The first research was conducted by Alfina Maharani.⁴ This research focuses on consumer protection as viewed from a financial point of view. it was found that the Consumer Protection Law is sufficient to safeguard consumers if both parties (consumers, business actors, and LPKSM) understand their respective rights and obligations. The second research was conducted by Alexandra Exelsia Saragih.⁵ The research focuses on legal protection for consumers who conduct business transactions using the Internet, or E-Commerce. That research revealed that e-commerce is controlled by the ITE Law, which protects the protection and security of the parties (sellers, organizers, and consumers) when transacting using electronic networks through the formation of an electronic contract. Furthermore, there are two options for resolving dispute

² Diva Lufiana Putri and Inten Esti Pratiwi, "BPOM Ungkap 181 Kosmetik Merkuri Dan Non-Merkuri 2023, Ini Daftarnya," *Kompas.com*, 2023, <https://www.kompas.com/tren/read/2023/12/11/081500565/bpom-ungkap-181-kosmetik-merkuri-dan-non-merkuri-2023-ini-daftarnya?page=all>.

³ Nidia Zuraya, "BBPOM Pekanbaru Temukan 1.826 Produk Kosmetik Tidak Memenuhi Ketentuan," *Republika.co.id*, 2022, <https://news.republika.co.id/berita/rfzuz7383/bbpom-pekanbaru-temukan-1826-produk-kosmetik-tidak-memenuhi-ketentuan>.

⁴ Alfina Maharani and Adnand Darya Dzikra, "Fungsi Perlindungan Konsumen Dan Peran Lembaga Perlindungan Konsumen Di Indonesia: Perlindungan, Konsumen Dan Pelaku Usaha (Literature Review)," *Jurnal Ekonomi Manajemen Sistem Informasi (JEMSI)* 2, no. 6 (2021), <https://doi.org/10.31933/jemsi.v2i6.607>.

⁵ Alexandra Exelsia Saragih, Muhammad Fadhil Bagaskara, and Mulyadi, "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi E-Commerce," *Civilia: Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 2, no. 2 (2023), <https://doi.org/https://doi.org/10.572349/civilia.v2i2.414>.

consumer concerns in e-commerce transactions namely through non-litigation and litigation. The last is, was researched by Luh Putu Dianata Putri.⁶ This third research focuses on consumer protection from cosmetic products that are marketed without including information on the composition of the ingredients contained in the related cosmetic products. The researcher found that if consumers feel aggrieved due to unclear information obtained about a product, they can demand compensation, and business actors must be responsible for that.

The author's study on "Consumer Legal Protection of Whitening Cream Cosmetic Products" was interesting to conduct because, in general, if there are many goods and services being bought and sold, sales cannot be separated from the existence of consumers who benefit from them. As consumers, people are frequently in a vulnerable situation. That circumstance arises as a result of a lack of knowledge about the products purchased, a lack of awareness of their consumer rights, a lack of bargaining power with producers, and a lack role of in legal laws and institutions that regulate and oversee consumer rights. Then, all of the factors are frequently exploited by business actors to seek higher profits than usual or for firms to establish agreements that make them more profitable while making the consumer lose. Aside from that, normally business actors will sell things and use lower materials before selling them to customers at a more costly rate. Specifically, the behaviors of these businesses make customers who use whitening cream cosmetics the target of business activity in order to maximize profits through advertising techniques, sales patterns, and the adoption of anti-consumer standard agreements. This discrepancy in consumer positions results in societal inequities in the implementation of legal protection for Indonesian consumers.

Meanwhile, the aim of this research, is first, to decide the implementation of the principle of justice in consumer legal protection for whitening cream cosmetic products; and second, to find out the regulation of monitoring of consumer legal protection for whitening cream cosmetic products (legal justice theory perspective).

2. METHOD

This research takes a normative juridical approach, namely research that uses a process (beginning from tracing, studying, and researching to locating and analyzing) legal norms, legal principles, and legal doctrines to address legal questions about consumer protection,⁷ related to the topic of this research. The specifications of this research are included in qualitative descriptive research, which is research that is based on complex data and various references from various

⁶ Luh Putu Dianata Putri and A.A Ketut Sukranatha, "Perlindungan Hukum Terhadap Konsumen Terkait Produk Kosmetik Tanpa Komposisi Bahan," *Kertha Semaya: Journal Ilmu Hukum* 6, no. 10 (2018).

⁷ Djulaeka and Devi Rahayu, *Buku Ajar Metode Penelitian Hukum*, ed. Devi Rahayu (Surabaya: Scopindo Media Pustaka, 2019).

points of view so that it can generate arguments from multiple perspectives that lead to conclusions when looking at a phenomenon in society.⁸ Furthermore, the aim of this research, is first, to decide the implementation of the principle of justice in consumer legal protection for whitening cream cosmetic products; and second, to find out the regulation of monitoring of consumer legal protection for whitening cream cosmetic products (legal justice theory perspective).

The data in this research comes from primary legal materials (Pancasila, the 1945 Constitution, and statutory regulations, in particular all regulations related to the object of this research, one of which is Law Number 8 of 1999 concerning Consumer Protection, (hereinafter referred to as UUPK); secondary legal materials (in the form of scientific works, books, and journal articles by scholars and experts related to the object of this research); and tertiary materials (holy books, legal dictionaries, English dictionaries, the Big Indonesian Dictionary, publications, the internet, etc.).⁹

The data collection technique in this research uses document study or library research, so the data used in this research is secondary data which focuses on studying or reviewing documents or collecting data by searching for materials in the library, either in the form of statutory regulations, documents, scientific journals, textbooks, or other references related to this research.¹⁰ Aside from secondary data collection techniques, this research employs observational data collection techniques at the Pekanbaru City Food and Drug Inspection Agency Office (hereinafter referred to as BPOM Pekanbaru City), which is useful for gathering data by making direct observations of the object of this research, namely consumer legal protection for Whitening Cream Cosmetic Products users and its monitoring the implementation which will subsequently be examined from the standpoint of legal justice theory. The qualitative normative approach was utilized to analyze the data in this research.

3. RESULTS AND DISCUSSION

3.1 The Implementation of the principle of justice in Consumer Legal Protection for Whitening Cream Cosmetic Products

Humans have been familiar with cosmetics for ages, specifically since the 19th century. Cosmetics became more popular during this time period. Cosmetics are

⁸ Fitria Widiyani Roosinda et al., *Metode Penelitian Kualitatif* (Yogyakarta: Zahir Publishing, 2021).

⁹ Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum*, 10th ed (Jakarta: Raja Grafindo, 2018).

¹⁰ Pristika Handayani et al., "Analisis Pemenuhan Perlindungan Hak Anak Dalam Proses Beracara Pidana Terhadap Anak Yang Berkonflik Dengan Hukum," *Jurnal Ilmiah Hukum (JIH)* 1, no. 1 (2022).

not only used for physical appearance but also for health.¹¹ Cosmetics arise from the Greek word "kosmetikos," which means to decorate or organize.¹² The terminology employed in this research is cosmetic. The Big Indonesian Dictionary defines cosmetics as medications (ingredients) used to adorn the face, skin, and hair, such as powder or lip rouge.¹³ This differs from the concept of cosmetics as regulated in Article 1(1) of the Regulation of the Head of BPOM RI Number: HK.03.1.23.12.11.10052 of 2011 concerning the Monitoring of Production and Distribution of Cosmetics, which specifies that cosmetics are materials or preparations intended to be used on the external parts of the human body (epidermis, hair, nails, lips, and external genital organs) or teeth and oral mucous membranes, especially to clean, perfume, change the appearance and/or improve body odor, protect, and maintain the body in the best condition.¹⁴ Cosmetics have now become an essential requirement for humans. Cosmetics are not only utilized for cosmetic reasons; they also play a part in healing and skin maintenance.¹⁵ The main ingredients used in cosmetics are effective basic ingredients, active ingredients, and additional ingredients such as coloring and fragrance ingredients. The combination of ingredients must meet cosmetic manufacturing technology requirements, including chemical pharmacology, etc.¹⁶ Cosmetic additives may also contain medications that are preventative, promotive (improve health), or curative (cure).¹⁷ The circulation of whitening cream cosmetic products containing harmful substances has adverse effects on facial skin health, but consumers are unaware of the risks associated with long-term use.¹⁸ Each consumer's reaction to whitening cream cosmetic items containing harmful substances such as mercury and hydroquinone varies depending on the condition of their facial skin. To some

¹¹ Fisca Fajriani Sukma, "Identifikasi Asam Dehidroasetat Dalam Produk Kosmetika Dengan Menggunakan HPLC (High Performance Liquid Chromatography)," *Quimica: Jurnal Kimia Sains Dan Terapan* 1, no. 2 (2019).

¹² Siti Khodijah, Muhammad Iqbal Fasa, and Suharto, "Implementasi Bauran Pemasaran Syariah Pada Kosmetik Berlabel Halal Terhadap Keputusan Pembelian Konsumen Pada Perspektif Islam," *IESBIR: Islamic Economics and Business Review* 1, no. 2 (2022).

¹³ Heri Aryadi et al., "Analisis Tingkat Brand Loyalty Pada Pruduk Kosmetik Merek Wardah Di Jakarta Utara," *Akrab Juara: Jurnal Ilmu-Ilmu Sosial* 7, no. 3 (2022), <https://doi.org/https://doi.org/10.58487/akrabjuara.v7i3.1885>.

¹⁴ Taufiq Dalming, Ira Widya Sari, and Faulata Ainarti Agus, "Formulasi Lipcream Ekstrak Daun Teh Hijau (Camelia Sinensis L)," *Media Farmasi* 15, no. 2 (2019), <https://doi.org/https://doi.org/10.32382/mf.v15i2.1121>.

¹⁵ Realita Lifiani, Sondang Purba, and Ruth Christiani N Daely, "Sosialisasi Ekstrak Etanol Daun Afrika (Veronia Amygdalina Del) Sebagai Kostetik Tradisional Untuk Melembabkan Kulit Wajah Pada Masyarakat Talun Kenas," *Jurnal Abdimas Mutiara* 2, no. 2 (2021).

¹⁶ Dian Wuri Astuti, Hieronimus Rayi Prasetya, and Dina Irsalina, "Hydroquinone Identification in Whitening Creams Sold at Minimarkets in Minomartini, Yogyakarta," *Journal of Agromedicine and Medical Sciences* 2, no. 1 (2016).

¹⁷ Sudrajat Sugiharta, "Webinar Edukasi Alergi Bahan-Bahan Kosmetik Dan Cara Mengatasinya," *Prosiding Konferensi Nasional Penelitian Dan Pengabdian Universitas Buana Perjuangan Karawang* 2, no. 1 (2022).

¹⁸ Herlina and Evi Vestabiliv, "Pengaruh Pengetahuan Dan Penggunaan Kosmetik Pemutih Terhadap Kulit Wajah Pada Mahasiswi STIKes Persada Husada Indonesia," *Journal Of Health Sciences Persada Husada Indonesia* 6, no. 20 (2019), <https://doi.org/https://doi.org/10.56014/jphi.v6i20.157>.

consumers, facial whitening cream cosmetics products containing mercury and hydroquinone respond instantly to the facial skin, while others take several years, but they all have a significant impact on skin health.¹⁹ This must, of course, be a concern for the government, as it is the party in charge of making regulations and having the authority to provide protection for its citizens (consumers) by carrying out or implementing legal protection for consumers, given the increasing sale of whitening cream cosmetic products containing dangerous ingredients on the Indonesian market.

Legal protection is defined as an action that seeks to provide legal subjects with a sense of security in the event that they suffer losses. Legal protection will be realized if it is demonstrated that suitable legislative regulations (consumer protection) exist to permit a fair law enforcement process for the interests of legal subjects in the field of business law.²⁰ The legal protection discussed in this research is consumer protection when using whitening cream cosmetics that include dangerous components. Then, according to the rules of UUPK, specifically Article 1 paragraph 2, a consumer is defined as any person who utilizes goods and/or services accessible in society, whether for the benefit of themselves, other people's families, other living things, or animals, and not for trading. Furthermore, according to Article 1, paragraph 1, of UUPK, consumer protection refers to all actions that create legal certainty to safeguard customers. In other terms, consumer protection is an action that seeks to safeguard the public as customers.²¹ If there is a deviation in conditions when consuming or using a product, customers have the right to be heard, to be treated fairly, to be guided and advocated for, and to be compensated.²²

Then, to address related issues such as the implementation of justice principles in consumer protection for whitening cream cosmetic products, the author should first explain the principles of justice, the relationship between justice and the law, and the relationship between legal justice and consumer protection.

¹⁹ Setya Tri Handayani, "Hubungan Pengetahuan, Sikap Dengan Perilaku Konsumen Generasi Milenial Dalam Pembelian Kosmetik Dan Obat Herbal Melalui Pembelian Online Di Indonesia" (Universitas Islam Sultan Agung, 2022).

²⁰ Rachel Fayza Rabbani and Suherman, "Urgensi Pengaturan Confidentiality Agreement Sebagai Optimalisasi Perlindungan Kerahasiaan Informasi Bernilai Ekonomi," *Jurnal USM Law Review* 6, no. 3 (2023), <https://doi.org/10.26623/julr.v6i3.7830>.

²¹ Beby Suryani Fithri, Riswan Munthe, and Anggreni Atmei Lubis, "Asas Ultimum Remedium/The Last Resort Principle Terhadap Pelaku Usaha Dalam Hukum Perlindungan Konsumen," *Doktrina: Journal of Law* 4, no. 1 (2021), <https://doi.org/10.31289/doktrina.v4i1.4918>.

²² Carissa Amanda Siswanto et al., "Perlindungan Konsumen Terhadap Pembelian Obat Mengandung Psikotropika Pada Online Marketplace," *Jurnal USM Law Review* 5, no. 2 (2022), <https://doi.org/10.26623/julr.v5i2.5337>.

The term fair (al'adl) has an etymological meaning in the middle. The term justice (al'adl) is derived from Arabic and appears 28 times in the Al-Qur'an.²³ Meanwhile, according to the Big Indonesian Dictionary, social justice is defined as something that, is equally, not heavy-sided, impartial, side with the right things, and sticks to the truth.²⁴ Then, law and justice have a very close relationship.²⁵ The accomplishment of justice and social justice in a legal state is the most fundamental, complicated, comprehensive, structural, and abstract key component. This condition exists because the concept of justice and social justice includes the meanings of safeguarding rights, equality, and equal standing before the law, general welfare, and the principle of proportionality between individual interests, societal interests, and the state. Justice and social justice are not necessarily the result of rationality; they are also impacted by other societal ideals and standards.²⁶ Meanwhile, the connection between legal justice and consumer protection is supposed to give legal protection to consumers while also serving as an integrative mechanism to safeguard individual or group interests proportionally.

Furthermore, Friedman thinks that identifying or knowing about justice can help determine whether or not protection for a person or group is proportionate.²⁷ From the past to the present without pause and continuing till the end of time, the value of justice in the ideals of law, which is a struggle for humanity, has evolved in step with time and space.²⁸ Individual and societal justice are inextricably linked. This is because it is impossible to measure justice in a society without relationships between one individual and another.²⁹ Lyttle defines access to justice as the ability to bring claims and successfully obtain compensation, the ability to defend claims for which there is insufficient evidence, proportional costs, effective and simple procedures, fast proceedings from start to conclusion, and effective legal enforcement of a decision.³⁰ Access to justice refers to every citizen's ability to get

²³ M. Agus Yusron, "Memahami Tafsir Dan Urgensinya," *ZAD Al-Mufasssirin* 4, no. 1 (2022), <https://doi.org/https://doi.org/10.55759/zam.v4i1.135>.

²⁴ Elly Kristiani Purwendah, "Konsep Keadilan Ekologi Dan Keadilan Sosial Dalam Sistem Hukum Indonesia Antara Idealisme Dan Realitas," *Jurnal Komunikasi Hukum (JKH)* 5, no. 2 (2019), <https://doi.org/https://doi.org/10.23887/jkh.v5i2.18425>.

²⁵ Laurensius Arliman, "Mewujudkan Penegakan Hukum Yang Baik Untuk Mewujudkan Indonesia Sebagai Negara Hukum," *Doctrinal* 2, no. 2 (2017).

²⁶ Purwanto, "Perwujudan Keadilan Dan Keadilan Sosial Dalam Negara Hukum Indonesia: Perjuangan Yang Tidak Mudah Dioperasionalkan," *Jurnal Hukum Media Bhakti: Fakultas Hukum Universitas Pacea Bhakti Pontianak* 1, no. 1 (2017), <https://doi.org/https://doi.org/10.32501/jhmb.v1i1.2>.

²⁷ Kurnia Ambar Sari, "Integrasi Hukum Perlindungan Konsumen Dan Persaingan Usaha Atas Data Pribadi Konsumen Pada Platform Digital," *UNES Law Review* 6, no. 1 (2023), <https://doi.org/https://doi.org/10.31933/unesrev.v6i1.954>.

²⁸ Nurlaila Harun, "Keadilan Dalam Perspektif Hukum Islam," *I'TISHAM: Journal Of Islamic Law and Economics* 1, no. 2 (2021).

²⁹ Ana Suheri, "Wujud Keadilan Dalam Masyarakat Di Tinjau Dari Perspektif Hukum Nasional," *Morality: Jurnal Ilmu Hukum* 4, no. 1 (2018).

³⁰ Triyana Yohanes and Nikolaus Budi Arianto Wijaya, "Effectiveness Of The Regulation On Financial Service Consumer Protection In Indonesia," *Justitia Et Pax: Jurnal Hukum* 35, no. 1 (2019), <https://doi.org/https://doi.org/10.24002/jep.v35i1.1964>.

justice, regardless of their background (race, religion, descent, education, or place of birth), through judicial institutions. This also includes providing the community, particularly the impoverished, legally illiterate, and uneducated groups, with a fair and accountable (responsible) means for achieving justice in a constructive legal system through judicial institutions.³¹

When the UUPK was drafted, the drafters paid close attention to several basics that could be used as a reference for realizing consumer protection: first, the existence of an honest legal relationship between sellers and consumers; second, the existence of a legal relationship between business actors and consumers, usually starting with a contract that has been agreed upon by the parties and must be formulated clearly; third, customers are recognized as economic players; fourth, consumers who incur losses due to defective items will receive adequate compensation; fifth, providing options for the parties to address the disagreement that occurs.³² Furthermore, the UUPK regulates that there are two alternatives that can be used to resolve consumer disputes: first, through an institution that has the authority to resolve disputes between consumers and business actors; and second, through the judiciary within the general judiciary.³³

According to the author, to ensure that every consumer has access to justice, several things must be fulfilled, namely, first, the ability of the consumer to bring a loss claim with the aim of obtaining compensation; secondly, the ability to defend claims for which there is insufficient evidence, proportional costs, effective and simple procedures, fast solution of procedural process for all of consumer dispute; Third, in order to achieve access to consumer protection, a decision must be effectively enforced through resolved are in court (litigation) or outside of court (non-litigation); fourth, every party involved in a dispute involving just and legal consumer protection (either through litigation or non-litigation) has the right to obtain an easily accessible and timely compensation mechanism, allowing the restoration of consumer rights to be carried out effectively and efficiently with reasonable costs. However, after making observations, it became clear that, in general, access to the implementation of justice principles in implementing consumer protection can be blocked by the consumers themselves. Because, in the face of losses caused by products distributed by business actors, the majority of

³¹ Irwin Paat, "Implementasi Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum Dalam Penegakan Hukum Di Indonesia," *Lex Crimen* 11, no. 5 (2022).

³² Esy Kurniasih, Teguh Rama Prasja, and Anggraini Dwi Milandry, "Perlindungan Konsumen Dalam Hal Pelaksanaan Tanggung Jawab Pengusaha Travel Tanpa Izin Operasional," *Jurnal Analisis Hukum* 5, no. 2 (2022).

³³ Meiliana Kamila and Imam Haryanto, "Tanggung Jawab Hukum Perusahaan Ekspedisi Atas Hilangnya Barang Konsumen," *Jurnal USM Law Review* 5, no. 2 (2022), <https://doi.org/10.26623/julr.v5i2.5750>.

relevant consumers tend to be resigned or accept the events that occur to them and take no action to defend their consumer rights.

The author's conclusions are consistent with Nicole L'Heureux's thoughts, who noted that even if customers struggle to get their rights, the relevant consumers will have to battle hard because business actors have less responsibility for giving compensation. Consumers' inadequate bargaining power in front of business actors, as well as their lack of knowledge about the items they use, making it increasingly difficult for them to exercise and defend their rights.³⁴

Then, Article 2 of UUPK specifies that the execution of consumer protection must be based on various concepts, one of which is the concept of justice.³⁵ According to the author, the rule of justice in Article 2 is insufficient to guarantee legal justice for consumers of whitening cream cosmetic items containing dangerous ingredients, and amendments must be made in this regard. This notion stems from the author's belief that applying the principle of justice in consumer protection for whitening cream cosmetic items will create chances for consumers and business actors to gain their rights and carry out their obligations fairly. However, in fact, customers who are hurt by business actors (because they offer unsafe whitening cream cosmetic items) do not receive justice in the form of skin health restoration as a result of using products sold by the appropriate business actors. Furthermore, after identifying the implementation of Article 2 UUPK, it became clear that the implementation of consumer protection based on justice (as mandated by Article 2 UUPK) had not been carried out effectively. One of the reasons for this ineffectiveness is that consumers' standing is weaker before the law. Law enforcement to safeguard consumer interests focuses solely on business actors who break the regulations, not on recovery and compensation for the distribution of harmful cosmetic goods that injure consumers. Although actually providing recovery and compensation are one of the consumer's rights regulated by Article 4 of UUPK, which states that consumers have the right to receive compensation and/or replacement if the goods and/or services received do not meet their requirements or are not as they should follow the agreement. However, this is not the case.

This also breaches the explanatory provisions of Article 7(b) of UUPK, which specifies that when selling their products, business actors must provide education and clear usage instructions for the products they distribute. However, based on studies, it appears that there are still many incidences and cases of consumers using

³⁴ Abi Jumroh Harahap, "Tinjauan Hukum Praktik Bisnis Berkeadilan Melalui Peningkatan Aksesibilitas Konsumen," *De Lega Lata: Jurnal Ilmu Hukum* 2, no. 1 (2017), <https://doi.org/https://doi.org/10.30596/dll.v2i1.1133>.

³⁵ Siswanto et al., "Perlindungan Konsumen Terhadap Pembelian Obat Mengandung Psikotropika Pada Online Marketplace."

whitening cream cosmetic items containing dangerous ingredients, with female consumers being the majority. And when customers "complain," they are almost never served by business actors if there is an issue with the things they have purchased and utilized. Consumers of whitening cream cosmetic products who are affected by linked items do not have the same standing as business actors, which is why many consumers do not submit complaints about the usage of whitening cream cosmetic products. In other words, too many individual customers are unaware that their consumer rights are legally protected. Due to customers' lack of awareness of their rights, business actors are capitalizing on chances and potential, as well as the market for whitening cream cosmetic products, which are in great demand. The market possibility for the sale of whitening cream cosmetics is greatly spelled out, especially if the product is popular among female consumers, both teenagers and regular women.

Furthermore, the UUPK requires business actors to take responsibility for the products they market in order to provide consumers with a sense of justice for the products they offer. As a result, the UUPK imposes on business actors the responsibility to provide compensation for damage, pollution, and/or consumer losses caused by consuming or using goods and/or services manufactured or traded. This is regulated in Article 19(1). However, data identification and observations revealed that business actors did not execute Article 19(1) of the UUPK. This occurs because the business actor believes that it is not their duty, but rather the fault of the consumer, that the appropriate whitening cream product has been opened and consumed. In other words, according to the business actor's perspective, the whitening cream cosmetic product has become the consumer's property, so whatever the consumer obtains after using the related product is no longer the responsibility of the business actor, despite the fact that the provisions in the UUPK at Article 19(2) still hold the business actor responsible for this matter. In fact, Article 19(2) states that if a customer uses a distributed product and discovers that the product is unsuitable and causes injury to the consumer, the business actor is required to offer compensation. Compensation can take the form of a refund or replacement of products and/or services of the same or similar value, or health care and/or compensation in accordance with the rules of the relevant laws and regulations.

Based on the identification of data and the results of observations made by the author, it can be identified that the implementation of the principle of justice in consumer protection for whitening cream cosmetic products has not been implemented as it should be due to several factors, namely the government factor (the government only enforces the law and provides sanctions to business actors who break the rules, such as selling dangerous cosmetic products, while not paying more attention to imposing sanctions on naughty business actors, failing to assist consumers in restoring their health, and providing compensation to consumers who

have used the dangerous whitening cream cosmetic products that they have sold); and business actor factor (the business actor considers that assisting consumers to restore their health and providing compensation to consumers who have used the dangerous whitening cream cosmetic products that they have sold is not their responsibility but rather the fault of the consumers concerned, due to the consumer's inaccuracies about himself or herself and the linked whitening cream product that has been unsealed and used by the relevant consumer); and the consumer awareness component (there are three) consumer attitudes in dealing with the problem of consumer protection that are not yet legally legitimate, namely: first, (poor or even no consumer awareness regarding their different rights, which have been regulated by the UUPK, So that they cannot make use of relevant rights); secondly, (many consumers do not know how to frame their requests after having been harmed by business actors); third, (consumers are reluctant to bring concerns about the protection of their rights as consumers before the court because of the cumbersome bureaucracy that consumers face when reporting a violation of relevant consumer rights). In other words, creating situations and conditions that implement legal justice principles in implementing protection for consumers who use whitening cream cosmetic products requires not only the government's involvement, coordination, and awareness, but also that of business actors and consumers themselves.

Furthermore, the author believes that the ideal principle of justice in enforcing consumer law protection against the use of whitening cream cosmetic products containing dangerous ingredients can be achieved in a variety of ways; First, beginning with providing reasonable compensation to consumers who suffer losses as a result of using related whitening cream cosmetic products. That compensation might take the form of (first, giving some money to offer therapy for the damage produced by the use of harmful substances in facial whitening cosmetics. Business actors that sell facial whitening cosmetic items that include toxic substances must pay compensation, even if they are business actors from abroad; and provide suitable health facilities for female consumers who have been disadvantaged as a result of facial or skin damage, whether severe or little. This facility must also be provided by the government in government hospitals in the section for treating skin illnesses and cosmetic impacts in order to provide convenience for female consumers with limited economic conditions); Second, the state must ensure that consumers have a proper understanding of the consequences of using cosmetic items containing whitening cream containing harmful components. Providing this guarantee not only entails canceling permits and withdrawing products from distribution, but it also requires business actors to compensate consumers who use cosmetic products containing harmful components; Third, consumers of whitening cream cosmetic products that contain dangerous ingredients must be provided with education and assistance, both by the government and the police. This is done to

simplify for the consumer the complaint procedure against not-good-faith business actors.

3.2 Regulations of Monitoring on Consumer Legal Protection for Whitening Cream Cosmetic Products (Legal Justice Theory Perspective)

The Food and Drug Supervisory Agency (hereafter referred to as BPOM) is a regulatory authority for medications and food that is proactive in monitoring the safety, quality, and efficacy/benefits of drugs and foods, including cosmetics. The BPOM referred to in this research is the Pekanbaru City BPOM. Furthermore, BPOM-supervised items are more than simply cosmetics; they might be considered medicinal products because they contain medicinal compounds and are utilized as whitening creams, anti-acne, and so on. Products like this should be manufactured in facilities that fulfill Good Medicine Manufacturing Practices (hereafter referred to as CPOB) standards, and they should only be used with a doctor's prescription. Even the design of cosmetics production facilities must comply with Good Cosmetics Manufacturing Practices (hereafter referred to as CPKB). To satisfy CPOB and CPKB standards, the Pekanbaru City BPOM Office's facilities are limited to a warehouse that also serves as a cosmetics production facility. In truth, this institution does not exceed sanitary and hygiene norms. This is extremely harmful to consumers because the use of medical compounds and production methods that do not fulfill CPKB requirements might have a detrimental impact on those who use the products. Consumers who have skin problems, such as acne or sensitive skin, should be aware that utilizing products like this can aggravate their condition.

Meanwhile, according to Article 29(1) of the Consumer Protection Law, the government is responsible for encouraging the implementation of consumer protection. This guidance is carried out to ensure the acquisition and execution of the rights and obligations of consumers and business actors; constructing and growing a business climate, as well as healthy connections between business actors and consumers; developing a Non-Governmental Consumer Protection Institution (hence referred to as LPKSM); Improve the quality of human resources and promote research and development in consumer protection. And, under Article 30 paragraphs 1 and 3, the government and LPKSM are responsible for supervising the execution of consumer protection and statutory provisions on goods and/or services in the market. In other words, BPOM is not included in the provisions of this article as an institution that supervises the implementation of consumer protection, even though many products on the market are dangerous to consumers, therefore, the author believes it is necessary to update this clause in the UUPK. Then, after the author identified it, it was discovered that UUPK also failed to provide technical instructions or guidelines, as well as a sufficient explanation of the government's (in

this case, LPKSM) responsibility for supervising the implementation of consumer protection as users of whitening cream cosmetic products.

Furthermore, under the provisions of Article 30 paragraph 6 UUPK, the technical implementation of monitoring functions will be specified by government regulation. The relevant government regulation is Government Regulation Number 58 of 2001 Concerning the Development and Supervision of the Implementation of Consumer Protection (hence referred to as PP P3PK). And, because there are no provisions in UUPK regarding BPOM as one of the institutions that can supervise the implementation of consumer protection regarding the use of whitening cream cosmetic products, there are also no provisions in PP P3PK regarding technical implementation and government (BPOM) responsibilities, so that consumers of facial whitening cosmetics don't have supporting facilities and infrastructure, legal services are not optimal, and the role in resolving consumer disputes and enforcing the law against business actors who do not have good intentions is not optimal, even though the author was identified on the BPOM website,³⁶ There is a provision that drug and food control is a joint responsibility of the government, including law enforcement, business actors, and the community by their respective duties and authorities, so in the author's opinion, the UUPK should add provisions related to roles and functions as well as form technical regulations for BPOM in carrying out protection for consumers against the use of chemical products (in this case, whitening cream cosmetics that contain dangerous ingredients).

Aside from LPKSM, which has been tasked by the UUPK with overseeing the implementation of legally just consumer protection, an institution has been established to protect consumer rights, known as the National Consumer Protection Agency (hereinafter referred to as BPKN). The goal of establishing BPKN to assist in the growth of consumer protection in Indonesia is to create a sense of national urgency so that BPKN can work toward its vision of becoming the leading institution for the realization of dignified consumers and responsible business actors.

However, according to the author's identification result, since the foundation of BPKN in 2004, this agency has been unable to carry out its obligations and tasks as a consumer protection organization. From 2017 to September 1, 2023, the total number of consumer complaints received by BPKN RI was 8,821 (eight thousand eight hundred twenty-one complaints). In other words, the total number of consumer complaints received by BPKN in 2023 will be 659 (six hundred and

³⁶ Pusat Data dan Informasi Obat dan Makanan, "Penjelasan Badan POM RI Tentang Peran Aktif Masyarakat Dalam Pengawasan Obat Dan Makanan," Badan POM, 2018, <https://www.pom.go.id/penjelasan-publik/penjelasan-badan-pom-ri-tentang-peran-aktif-masyarakat-dalam-pengawasan-obat-dan-makanan>.

fifty-nine) complaints,³⁷ so, based on the number of complaints, it appears that BPKN and the LPKSM have not performed optimally in terms of consumer protection. BPKN did not perform optimally in supervising and accommodating consumer complaints; the two government institutions (BPKN and LPKSM) only took enforcement actions, withdrawing and closing goods production sites, but did not consider the fate of consumers who used whitening cream cosmetic products containing dangerous ingredients.

Then, after identifying the data, the author discovered that government legal action to implement consumer interests can be carried out in a variety of ways, including, first, imposing obligations on various government organs (from the highest to the lowest level) to implement consumer interests. in both general and specific; Second, create laws, government rules, and even technical regulations that prohibit (aimed at business actors and consumers) carrying out actions (behavior) in order to determine the rights and obligations of each party; third, orders or decrees from the government, especially BPOM as the supervisor of drug and food distribution, which can directly supervise and give orders and responsibilities to business actors who do not have good intentions. However, based on the author's observations, none of these significant government activities have accommodated the needs of consumers of whitening cream cosmetic items in the current UUPK.

Therefore, according to the author, in the framework of legal reform thinking, to implement supervision of consumer legal protection against the use of whitening cream cosmetic items that include dangerous substances, several things must be done, namely; First, there must be changes to the UUPK that are carried out dogmatically, namely changes that are made comprehensively and implemented very carefully to provide changes to consumer protection for whitening cream cosmetics that contain dangerous ingredients; Second, regulations for consumer protection should be developed not only through the UUPK but also through the formulation and implementation of regional-level regulations (Pekanbaru City Regional Regulations); Third, the government must guarantee the certainty of the enactment of consumer protection laws to protect consumer rights by coordinating with professional experts in their fields, such as educational staff at the university level.

Furthermore, according to the author, to realize the reconstruction of legal protection for consumers of whitening cream cosmetic products that contain dangerous ingredients to ensure legal certainty and legal justice, the UUPK must be substantively updated. Meanwhile, one of the reasons for the urgency of renewing the UUPK is that the implementation of the principles of justice regulated in Article

³⁷ Badan Perlindungan Konsumen Nasional Republik Indonesia, "Grafik Pengaduan 2017-2023," BPKN-RI, 2023, https://bpkn.go.id/statistik_pengaduan.

2(2) of the UUPK has not been properly implemented. These principles of justice should be able to be optimally realized and provide opportunities for consumers and business actors to obtain their rights and carry out their obligations fairly. However, in reality, consumers who are hurt by business actors do not receive justice because there is an imbalance in power between consumers and business actors.

Consumer legal protection, as an effort to ensure legal certainty from arbitrary actions that may be detrimental to consumers because it is in the interests of business actors, will be realized if there is an increase in the honor and dignity of consumers themselves.³⁸ However, in reality, legal protection for cosmetic users of whitening cream goods containing harmful substances lacks legal certainty and fairness. Cosmetic consumers of whitening cream products containing dangerous ingredients in Pekanbaru City who suffer significant losses as a result of the effects of using these products are female consumers in low-income households because the price of whitening cream cosmetic products containing these dangerous ingredients is much lower than if they had to seek treatment at a salon. Therefore, according to the author, in addition to the formation of more capable and concrete regulations regarding the provisions for regulating consumer rights and the role and function of authorized institutions in developing and supervising the implementation of consumer protection as an effort to realize consumer protection that is just and legal, provision must also be made for as well as certain training to increase consumer awareness, knowledge, concern, ability, and personal independence to protect themselves.

In other words, according to the author, to achieve legally just consumer protection and supervision, the provisions of Article 2 UUPK should be revised into more detailed provisions regarding the principles of justice that must be met in the implementation of consumer protection; Add provisions about the role and function of BPOM as an institution empowered to supervise the implementation of consumer protection in the UUPK; giving free legal aid to disadvantaged consumers who have been harmed by utilizing harmful whitening cream cosmetic items sold by business actors; and simplify dispute resolution procedures between consumers and business actors to realize compensation and forms of responsibility for business actors.

4. CONCLUSION

The implementation of the principle of justice in consumer legal protection for whitening cream cosmetic products containing dangerous ingredients has not been implemented effectively and efficiently, as required by Article 2 UUPK, because

³⁸ Nur Khalifatunnisa and Fatah Hidayat, "Peran Balai Besar Pengawas Obat Dan Makanan Dalam Pencegahan Pelaku Usaha Yang Mendistribusikan Kosmetik Illegal," *Ta'zir: Jurnal Hukum Pidana* 5, no. 2 (2021), <https://doi.org/https://doi.org/10.19109/ta'zir.v5i2.10781>.

consumers' positions are too weak, unfair, and incomparable to those of business actors. Furthermore, there has been no provision for effective consumer compensation to achieve just and legal consumer protection because sanctions imposed on business actors who violate UUPK provisions are purely administrative and criminal, with no obligation to compensate for losses or restore the health of damaged facial skin to relevant consumers. Then, according to UUPK provisions, it is known that the regulation of monitoring consumer legal protection for whitening cream cosmetic items (from a legal justice theory perspective) is not of BPOM institution (Article 30 (1) UUPK). Because of that, Pekanbaru City BPOM's monitoring function on this research topic has also been ineffective, resulting in the relevant consumers lacking the necessary facilities and infrastructure, free legal assistance, and fast access to resolve consumers' issues with business actors.

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