



# Legal protection for consumers against the distribution of food containing pork: evidence in Indonesia

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**Abstract.** The Indonesian government implements the consumer protection law to improve its people's welfare. The regulation is needed to provide legal certainty to consumers, one of which relates to the distribution of non-halal food among the majority of the Muslim community, including foods containing pork. The purpose of composing this paper is to present a review of legal issues related to cases of food distribution containing pork among the Muslim community in Indonesia. The paper is a review study based on descriptive methods, which are strengthened by causal loop diagrams. It concludes that the resolution of disputes between consumer and business actors in various regions produces different legal certainty in cases of food distribution containing pork. It is necessary to encourage the utilization of the dispute resolution institution through the non-litigation route, so that community empowerment can improve in selecting, determining, and claiming their rights as consumers.

**Key Words:** causal loop diagram, consumer protection, non-halal food.

**Introduction.** The Indonesian government's efforts to improve the welfare of its people, among others, is through implementing a consumer protection law, in line with the enactment of Law Number 8 of 1999 concerning Consumer Protection. The application of the regulation is a manifestation of the state's presence, among others, in elevating the dignity of consumers by preventing them from harmful excesses in consuming goods and services. Besides, it aims to increase consumers' empowerment in selecting, determining, and claiming their rights as consumers. Every consumer harmed can sue business actors through institutions tasked with resolving disputes between consumers and business actors or through general court. In other words, consumer dispute resolution can be taken through the litigation route (general court), or the non-litigation route (out of court) based on the voluntary choice of the disputing parties (The Republic of Indonesia 1999).

For some time, there has been a distribution of foods containing pork in neighborhoods with a majority Muslim population in several regions in Indonesia. Distributing the food causes fidgetiness among the public, considering that consuming non-halal food by Muslim consumers leads to physical and spiritual losses. From a physical perspective, these foods contain harmful ingredients which can destroy their health. Meanwhile, from a spiritual perspective, consuming products that are not halal are considered a sin for the Muslim consumer. Distributing the foods violates the Consumer Protection Law, in particular Article 4 letter C, which violates consumers' rights to correct, transparent, and honest information regarding the conditions and guarantees of goods and services (Putri 2020).

Moreover, the food distribution case violates several other relevant laws and regulations, particularly Law Number 18 of 2012 concerning Food and Law Number 33 of

2014 concerning the Guarantee of Halal Products. Among others, violations of the Food Law are related to Article 67, which corresponds to food safety, that the distribution of food products must not conflict with the local community's religion, beliefs, and culture. The food safety provisions related to religion and belief based on the law are further strengthened and followed by the Law of Guarantee of Halal Products. Violations of the law, particularly Article 4, occur because business actors do not have a halal certificate, even though their food products are included in the halal food category (Hermawan 2020).

The objective of the paper is to present a review of legal issues related to cases of food distribution containing pork among the Muslim community in Indonesia. This paper is expected to enrich references on the use and distribution of pork products related to legal aspects, especially consumer protection law.

## **Material and Method**

**Description of the study area.** Indonesian population had 272.23 million people in June 2021. A total of 236.53 million people (86.88%) of the country's population are Muslim, so most of the population is Muslim. Based on this, Indonesia has the largest Muslim population in the world. Besides, the Indonesian population embraces Christianity of 20.4 million people (7.49%), 8.42 million people (3.09%) are Catholic, 4.67 million people (1.71%) are Hindus, 2.04 million people (0.75%) are Buddhist, 73020 people (0.03%) are Confucians, and 102510 people (0.04%) are disciple for the flow of beliefs.

The province with the largest Muslim population in Indonesia is West Java, with 46.3 million people or 97.29% of the province's total population. Then, East Java has a population of 39.85 million Muslims, or 97.21% of the province's total population. Furthermore, Central Java has a Muslim population of 36.21 million or 97.26% of the province's total population. There are 30 provinces where most of the population is Muslim or more than 50%. Only in 4 provinces is Islam a minority religion or below 50% (Kusnandar & Mutia 2021).

**Methods.** This paper is a review study that is presented through a descriptive method. Utilizing the method aims to construct a description of a situation or occasion by collecting several selective and relevant academic research with the paper topic. This paper employs causal loop diagrams to strengthen the use of descriptive methods. Its purpose is to describe the relationship between components that are the center of attention in a system (Setianto 2016; Santoso et al 2021).

**Results and Discussion.** Putri (2020) reported that there had been fraud by the business actor of Soto Food in Bantul Regency, Yogyakarta Province. The food business actor blends his selling product with pork, but the business actor does not provide clear and correct information about the content of the food product that sells. It aims that the business actor wants to earn more profit, considering that the price of pork is lower than other ruminant animal meat. The business actor understands and is conscious that it has violated the consumer's rights, but the business actor still decides to trade the food product. The results of a sudden inspection by the competent authority prove that the food sold by the business actor contains a blend of pork. Finally, the incident caused the restaurant owned by the business actor to be closed. However, one day the restaurant turned out to return to service. It is suspected that the sanctions given to the business actors are only weak sanctions, namely violations for not giving halal labels to the food products sold.

The study above concludes that the protection of Muslim consumers against the fulfillment of the right to information on the sale of food that is not labeled halal in the region is still weak. The relevant agencies authorized to monitor and supervise the food trade are still passive in handling cases of the distribution of food containing pork that occurs. Supervision efforts are limited to persuasive efforts in protecting Muslim consumers without any real action and directly taking on fraud. This study does not reveal why the authorities seem weak in cracking down on such fraud. There is the

notion that the business actor lobbied the authorities to obtain a reduction in the sanctions they will acquire. This conjecture is based on the fact that corrupt practices in Indonesia are still solid and entrenched (Prabowo & Cooper 2016).

Table 1

Violation of the regulations committed by the Soto food business actors  
in Bantul Regency, Yogyakarta Province

<i>Violation of regulations</i>		
<i>Regulations</i>	<i>Articles</i>	<i>Contents</i>
Law No. 8 of 1999 concerning Consumer Protection	Article 4 letter H	Consumer rights are the rights to obtain compensation, indemnity, and replacement if the goods and services are not following the agreement or not as they should be.
	Article 7 letter A	Business actors must have good intentions in maintaining their business activities.
	Article 7 letter B	The obligation of business actors must provide trustworthy, transparent, and honest information regarding the conditions and guarantees of goods and services and explain use, repair, and maintenance.
	Article 19 Verse 1	Business actors are responsible for compensating for damage, pollution, and consumer losses due to consuming the goods and services produced or traded.

Note: The Republic of Indonesia (1999).

Consumers feel sluggish to denounce the case to the competent authority, considering that addressing the case will be complicated, will take a long time, and have substantial costs (especially when leading the litigation route). Meanwhile, actual conditions still occur that food business actors do not include halal labels on billboards posted at their place of business. Besides, they do not include information about the content of the food products they trade. Of the actions of the business actors, consumers find disadvantaged in view they do not reach correct information regarding the food they consume. This action is contrary to Article 7, letter B of the Consumer Protection Law considering business actors do not provide correct, transparent, and honest information concerning the condition of the goods being traded (Table 1). Lack of consumer understanding of their rights creates the consumer's position weak when dealing with business actors. Accordingly, in the process of proving violations committed by business actors, it also becomes weak. Moral hazard actions and the poor understanding of business actors towards the consumer protection law have resulted in many business actors violating consumer rights, failing to carry out their obligations, and neglecting their responsibilities.

The actions of business actors argue that why are not responsible for the losses suffered by consumers. They assume consumers themselves are not careful in purchasing food products. The actions of these business actors are contrary to Article 7, letter A, of the Consumer Protection Law, in view that they do not have good intentions in maintaining their business activities (Table 1). Of the actions of these business actors, consumers experience material and immaterial losses. Materially, the consumers are harmed by spending a certain amount of money to purchase something that the consumers should not have bought. Immaterially, consumers meet losses considering their souls become restless in view they are terrified of sin. That matter because they have consumed foods that are not allowed according to Islamic tenets. Consumers have the right to obtain compensation as contained in Article 4 letter H of the Consumer Protection Law. Business actors must be responsible for providing compensation to consumers following Article 19, Verse 1 of the law (Table 1). An explanation of the above-case problem can be described through a causal loop diagram (Figure 1).

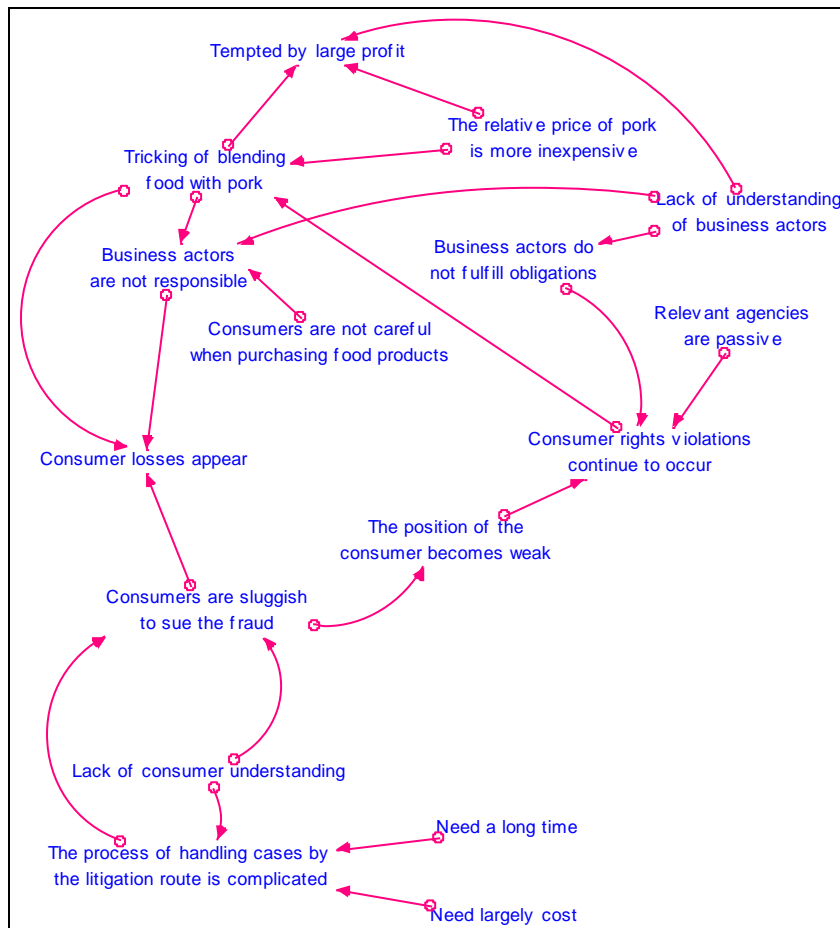


Figure 1. Causal loop diagram of the fraud problem of food business actors containing pork in Bantul Regency, Yogyakarta Province.

Meanwhile, Febrina and Anggraini (2020) also reported fraud committed by satay food business actors in Padang Municipality, West Sumatra Province. The food business actors combine their satay food with pork. After receiving a report from the local community, it was suspected that the officer disguised themselves as satay buyers, further the officer tested the satay samples at the Center for Drug and Food Control in Padang City. Laboratory test results stated that the satay food positively contained pork. The competent authorities immediately handle safety and action against these business actors by seizing all the satays in their selling points and home. The food business actors purchase pork from the trader to be processed into satay food. Moreover, the food business actors were tried in the Padang District Court.

The results of this study conclude that the actions of these business actors have fulfilled the elements of violation as stipulated in Article 8, letters A and D of the Consumer Protection Law (Table 2). That matters since business actors combine pork into beef satay processed foods marketed at their selling point. The business actors also promise that the processed food they sell are beef satay, as the promotional effort's information through banners is displayed in their selling point.

Food safety is one of the essential factors in the implementation of the food system. Food safety is a condition and effort needed to prevent food from being contaminated by biological, chemical, and other materials that can interfere with, harm, and endanger human health. Besides, it does not conflict with religion, belief, and community culture, so it is safe for consumption. The implementation of food safety is intended so that the state can protect people from consuming food that is safe for their mental health and safety. Based on this, the business actor has violated the Food Law Article 86 Verse 2 and the Government Regulation on Food Safety Article 35 Verse 1 (Table 2). It is since,

to that point, the business actor does not have a household processed food production permit in the form of a certificate issued by the Mayor of Padang Municipality.

Table 2

Violation of the regulations committed by the business actors of satay food in Padang Municipality, West Sumatra Province

No.	<i>Violation of regulations</i>		
	<i>Regulations</i>	<i>Articles</i>	<i>Contents</i>
1	Law No. 8 of 1999 concerning Consumer Protection	Article 8 Verse 1 letter A	Business actors are prohibited from producing and trading goods and services that do not meet or do not comply with the minimum standards and provisions of laws and regulations.
		Article 8 Verse 1 letter D	Business actors are prohibited from producing and trading goods and services that do not follow the conditions, guarantees, privileges, or efficacy stated in the label, sticker, or description of the displayed goods and services.
2	Law Number 18 of 2012 concerning Food Law Number 33 of 2014	Article 86 Verse 2	Everyone producing and trading food must meet food safety and quality standards.
3	concerning Guarantee of Halal Products Government Regulation	Article 4	Products that enter, circulate, and are traded in Indonesian territory must have a halal certificate.
4	Number 86 of 2019 concerning Food Safety	Article 35 Verse 1	Certain processed foods produced by households' industry must have a processed food production permit for the home industry.

Note: The Republic of Indonesia (1999, 2012, 2014); The Government of Indonesia (2019).

Basically, business actors are allowed to market food made from pork. However, business actors should have good faith by informing the food they sell clearly and honestly. Suppose business actors decide to trade the halal food category as regulated in the fatwa of determination of halal products determination by the Indonesian Ulema Council (MUI), so the business owner must register their food products through halal certification. Since the business actors do not certify the halal food product traded, the business actors violated Article 4 of the Halal Product Guarantee Law (Table 2).

In another study, Pradana (2018) reported that imported instant noodle foods distributed in Indonesia are suspected of containing pork. The food products from South Korea were imported by two different importers, namely P. T. Koin Bumi and P. T. Korinus. However, only P. T. Korinus has obtained halal certification. Products imported by P. T. Koin Bumi do not have a halal certification and a halal label on the packaging. It is disturbing for the Indonesian, predominantly Muslim people, considering that Muslim consumers need more transparent information to enjoy halal products. It has unequivocal that food ingredients derived from pork have been categorized as non-halal according to the Halal Product Guarantee Law Article 18 Verse 1 (Table 3). Using ingredients derived from pork, such as bones, blood, meat, fat, and skin, can cause a food product, among others, to be categorized as not halal. There is no tolerance limit for the use of pork in a food product, even though it exists at only 1%.

Table 3

The regulations related to the case of imported instant noodle foods containing pork in Indonesia

No.	Violation of regulations		
	Regulations	Articles	Contents
1	Law No. 8 of 1999 concerning Consumer Protection	Article 4 letter C	Consumer rights are the right to correct, transparent and honest information regarding the conditions and guarantees of goods and services.
		Article 60	The administrative sanction is in the form of stipulating compensation for a maximum of 200,000,000.00 IDR (two hundred million rupiahs).
2	Law Number 33 of 2014 concerning Guarantees for Halal Products	Article 18 Verse 1	Materials derived from prohibited animals include carrion, blood, pork, and animals slaughtered but not following the Shari'a.
		Article 26 Verse 2	Business actors who produce products from materials derived from prohibited materials are required to include non-halal information on the product.
		Article 27 Verse 2	Business actors who do not complete the obligations referred to in Article 26 Verse 2 are worn to administrative sanctions in the form of verbal warnings, written warnings, or administrative fines.
3	Regulation of the Head of National Agency of Drug and Food Control Number HK.00.05.1.23.3 516 concerning Circulation Permits of Medicinal Products, Traditional Medicines, Cosmetics, Food and Food Supplements that are Sourced, Contain, from Certain Materials and or Contain Alcohol	Article 6 Verse 2	Food and beverage-sourced products that contain or are derived from pork can be given a distribution permit. However, the provision must meet the safety, quality, and nutrition requirements. Besides, food label requirements must also include the words and pictures "containing pork and pictures of pork" in a colored box red on a white base on the marking/label.

Note: The Republic of Indonesia (1999, 2014); BPOM (2009).

P. T. Koin Bumi argues that The National Agency of Drug and Food Control (BPOM) does not require a food content test in the distribution permit registration process. It indicates that the importer intentions in distributing the product are not fair. Although there is no test requirement for food content in the distribution permit registration process, the importer should be aware that the market segmentation they are penetrating is the

Indonesian consumer community, the majority of whom are Muslim. If the importer has good intentions, the importer should be more considerate of the ingredients contained in the product based on health and halal aspects. If the importer intends to distribute halal products in the Indonesian market, the importer should be an effort to register the halal certification of the product from the MUI. However, if at first indeed plan to distribute the product as a non-halal product, the importer must lead a particular procedure so that Muslim consumers do not deceive when the product is circulating in the market. Finally, the inspection results stated that the imported instant noodle product contained pork, so BPOM withdrew the distribution permit for the instant noodle products.

This study concludes that the Halal Product Guarantee Law still provides opportunities for non-halal products to be distributed in Indonesia on condition that the producer includes non-halal information on the food packaging (Article 26 Verse 2). The law is detailed further through the Regulation of the Head of BPOM Circulation Permits of Medicinal Products, Traditional Medicines, Cosmetics, Food and Food Supplements that are Sourced, Contain, from Certain Materials and or Contain Alcohol, especially in Article 6 Verse 2 (Table 3). That regulation explains that food and beverage products containing non-halal materials may be given a distribution permit provided the producer includes information containing pork accompanied by a picture of pork on the packaging. Sanctions for violating these provisions are administrative (Law on Halal Product Guarantee Article 27 Verse 2), among others, in the form of product withdrawal from circulation and product destruction (Table 3).

Following Consumer Protection Law, judicial protection efforts for Muslim consumers in distributing non-halal food products can be seen based on consumer rights. One of them is that the consumer has the right to obtain precise information regarding the condition of the food product (Article 4 letter C). Legal remedies that consumers can take for the negligence of the importer in distributing the non-halal food product are by suing compensation to the importer at a maximum of 200,000,000.00 IDR (Article 60) (Table 3).

**Conclusions.** The combination of the lack of understanding of consumers and business actors towards consumer protection laws (notably regarding consumer rights, as well as various obligations and responsibilities of business actors), moral hazard actions by business actors, and the lack of firmness of the competent authorities, lead to weak consumer protection in the case of the trade of Soto food containing pork in Bantul Regency, Yogyakarta Province. Meanwhile, consumer protection against fraud by satay food business actors containing pork in Padang Municipality, West Sumatra Province, has received an adequate response from the competent authorities. It indicated that the business actor has been judged in a district court and sentenced to criminal punishment. On the other hand, consumer protection for the distribution of non-halal imported instant noodles is shown through punishment imposed on certain importers through administrative sanctions, among others, by withdrawing the product from the national trade and destroying the product.

This paper recommends the need to encourage the use of the Consumer Dispute Settlement Agency (BPSK) in resolving disputes between consumers and business actors, mainly related to the distribution of foods containing pork. Referring to the descriptions mentioned earlier, the resolution of these problems tends to be pursued through the general court (litigation route). At the same time, the role of BPSK (non-litigation route) has advantages over general courts in the form of a simple settlement process, shorter time, and low cost. Hitherto, the role of BPSK has not been widely known by the public, so people have not used the institution much. Further studies are required, among others, to develop various strategies to encourage people to use BPSK in a specific area, given the community's different socio-economic and cultural characteristics.

**Conflict of interest.** The authors declare no conflict of interest.

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