

The Concept of Unlawful Act with the Strict Liability Model in Consumer Dispute Resolution in Indonesia

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ABSTRACT: Law Number 8 of 1999 concerning Consumer Protection regulates legal efforts to resolve consumer disputes through the courts. The lawsuit for damages is based on an unlawful act. The problem is how the concept of unlawful acts is a strict liability model for demanding compensation. The research method used is normative legal research. The results of this study explain that legal remedies through the concept of unlawful acts with this absolute liability model are by interpreting Article 19 paragraphs (1) and (3) of Law Number 8 of 1999. The concept of an unlawful act with a strict liability model is a plaintiff's obligation to prove the existence of a loss without having to prove a mistake. The recommendation is that the Government and the DPR immediately revise Law Number 8 of 1999 by strictly regulating unlawful acts as a legal norm in the law.

KEYWORDS: unlawful act, strict liability, consumer protection, compensation.

I. INTRODUCTION

Protection for consumers is a guarantee that consumers should get for every product purchased from producers or business actors. When consumers obtain goods or services, they always want quality goods or services, but in real life they sometimes do not always get goods or services that match their wishes, so this results in losses (Diyatmika et al., 2020). As consumers, of course they want to get the best service from business actors, although often the actions of producers or business actors actually harm consumers. For example, hidden defects in purchased goods, incorrect information, unsatisfactory service that consumers often experience, as well as poor online transactions, even though they have paid according to the price to obtain a good or service.

The current era of globalization with free trade means that trade liberalization provides an opportunity for countries to specialize in the production of goods and services, so that they can produce these goods cheaply (Dariah, 2005). Thus, many kinds of goods or services have emerged which are marketed to consumers in Indonesia, either through promotions, advertisements or direct offers of goods. This means that if you are not careful in choosing the desired product or service, consumers will only be harmed and become objects of exploitation from irresponsible business actors. Currently, without realizing it, consumers take the goods or services they consume for granted, resulting in various forms of errors and violations of consumer rights and this is disturbing and detrimental to society (Bustomi, 2018). If we look at the reality of what happened, there are several cases that can be considered detrimental to consumers, including the actions of business actors, whether intentional or due to negligence, which have serious and widespread impacts, so that the losses suffered by consumers can be massive. Material loss or threat of danger to consumers' lives caused by product imperfections. Some producers are less aware of their responsibility to protect consumers and ensure the safety and security of consumers in consuming the products they produce. Consumers who are victims are generally lower classes people, they have no other choice, so they are forced to consume or use goods or services with very minimal quality and safety. One day, this condition causes them to experience danger that could threaten their health and safety (Bustomi, 2018).

Consumers actually have rights that must be fulfilled by business actors, such as the right to protection in consuming or using goods or services, and the right to correct information about the condition of goods and services. Many consumers do not understand legal protection rights, because consumers have rights as buyers of goods and services (Atikah, 2020). Here there is a need to protect consumer rights, because according to the lazies faire paradigm, consumers and business actors are considered to have an equal position in the principle of freedom of contract (Sutedi, 2008). Likewise, it is stated in the principle of consumer protection, known as caveat vendor, that business actors and consumers are two equal parties (Sutedi, 2008) In reality, in practice this is not the case, the position of consumers in general is weaker when compared to business actors.

Consumers who feel disadvantaged do not know the steps that must be taken to demand fulfillment of their rights, so that fulfillment in the form of demands for compensation does not meet consumer expectations. Losses in the form of material losses

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or losses involving the consumer, such as illness, disability, or even death of the consumer. This claim for compensation has actually been stipulated in Law Number 8 of 1999 concerning Consumer Protection, especially in Article 19 paragraph (1) which explains that, "Business actors are responsible for providing compensation for damage, pollution and/or consumer losses due to consuming goods and/or services produced or traded". Because there is a demand for compensation which means there is a dispute, meaning a dispute over compensation. This dispute needs to be resolved, namely resolving the dispute between business actors or producers and consumers. Consumer Protection Law Number 8 of 1999 provides two legal remedies to resolve consumer disputes and at the same time protect consumers, namely dispute resolution through court and dispute resolution outside of court. This is regulated in Article 45 paragraph (1) which reads: "Every consumer who suffers losses can sue business actors through institutions tasked with resolving disputes between consumers and business actors or through courts within the general court."

The study in this paper is a consumer protection dispute that is resolved through the courts which refers to general (civil) court provisions, namely civil procedures or civil procedural procedures regulated in HIR/RBg. In general, civil proceedings in consumer protection disputes in court can take the form of ordinary individual lawsuits, simple lawsuits, class actions or lawsuits filed by consumer protection institutions, both government and non-governmental organizations. In a lawsuit or claim for compensation, it is aimed at an unlawful act, namely an act which according to the law has been violated (*onrechtmatigedaad*) with a claim for compensation. This provision is regulated in Article 1365 of the Civil Code. Consumers who feel they have been harmed as a result of consuming or using products produced by producers can sue for compensation through Article 1365 of the Civil Code. Article 1365 of the Civil Code states that, "every unlawful act that causes loss to another person requires that the person, because of his/her fault in causing the loss, compensate for the loss" (Hukumonline.com, 2014).

Apart from using the concept of unlawful acts in Article 1365 of the Civil Code, claims for compensation can also use the concept of strict liability which was adopted from the Anglo Saxon legal system. The concept of strict liability is different from the concept of unlawful acts in Article 1365 of the Civil Code. The element that must be proven by the plaintiff is that there is only loss, namely actual loss caused by the infringer or business actor, while the elements in Article 1365 of the Civil Code are the existence of loss, fault and causality (Frisca, 2021).

The problem is formulated, namely what is the concept of strict liability as a model for unlawful acts in resolving consumer disputes, and what elements must be proven in consumer dispute cases that occur as a form of consumer protection.

II. RESEARCH METHODS

The research method used is normative legal research, namely regarding the application of normative legal provisions in action to each specific legal event that occurs in society (Muhammad, 2004). According to Philipus M. Hadjon and Tatiek Sri Djamiati (2005), normative juridical research or normative legal research is research aimed at finding and formulating legal arguments through analysis of the main problem. Likewise, Lili Rasjidi (2009) stated that "the original legal research method is the normative legal research method". Therefore, from an application point of view, this research is problem-focused research, that is, the problem studied is based on theory or looks at the relationship between theory and practice (Soekanto & Mamudji, 1994). The main problem is the concept of absolute liability as a model for unlawful acts in resolving consumer disputes. The basis of this normative legal research approach is the main raw material, and examines theoretical matters relating to legal principles, legal conceptions, legal views and doctrines, regulations and legal systems. The legal data used is both primary legal data and secondary legal data, both from statutory regulations, books, previous research results, papers and the internet (website) which are closely related to the research.

III. RESULTS AND DISCUSSION

1. Development of Civil Liability in the Concept of Unlawful Acts

A claim for compensation is a claim from a party who feels disadvantaged as a result of a civil action. The claim for compensation is of course the result of an act which according to the law is considered to violate the law which results in loss. The party who demands compensation also demands civil liability. The existence of a civil liability claim is deemed to have committed a civil unlawful act. Acts against the law in Indonesia are known because of the enactment of the Civil Code or *Burgerlijk Wetboek* (BW) which the Dutch brought to Indonesia. This unlawful act originates from the continental European legal system which is a legacy of Roman law. An unlawful act in Dutch is known as *onrechtmatigedaad*, in English it is the tort or underlawful act (Fuady, 2004). According to Wirjono Prodjodikoro (1984), it provides an understanding that breaking the law does not only have a positive meaning but also a negative meaning, which also includes people who by remaining silent can be said to be breaking the law, namely in the case of someone who according to the law must act. The provisions for unlawful acts or *onrechtmatigedaad* are contained in Article 1365 of the Civil Code. The provisions of Article 1365 of the Civil Code are the legal basis for a person to file a lawsuit against the law in court. Article 1365 of the Civil Code describes it as an unlawful act

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if a civil action results in loss to another person, thereby requiring the person who is at fault to compensate for the loss (Kusumahpraja, 2021).

In its development, the concept of unlawful acts (*onrechtmatigedaad*) was initially formulated narrowly, namely only limited to acts that directly contradict or violate written law. Due to the development of society, several cases of unlawful acts have reached a dead end when they are sued in court on the grounds that there is no law. Since 1812, *Hoge Raad* formulated unlawful acts in a broad sense which includes an act that is contrary to morality or norms that are considered inappropriate in social life in society. After the issuance of standard arrest on January 31, 1919 (Sodikin, 2018), So the definition of an unlawful act is not only an act that violates another person's rights or goes against the law, but also a violation of decency or societal norms of decency, both against oneself and against others. The definition of unlawful acts is interpreted broadly, due to the very complex development of social life. The definition of unlawful acts in this broad sense does not actually provide a clear and definite formulation of unlawful acts, but later this understanding was used as a reason to file a lawsuit in court and judges now interpret unlawful acts broadly. However, judges in their decisions in law enforcement must be implemented fairly, so that the judge's decisions are expected to fulfill a sense of justice as far as possible (Margono, 2019).

A lawsuit using Article 1365 of the Civil Code needs to fulfill several elements as an unlawful act, such as elements of fault (*schuld*), loss (*schad*), causal relationship (*causal verband*) and relativity (*relativiteit*) (Prodjodikoro, 1984). The claim for compensation submitted according to Article 1365 of the Civil Code, the plaintiff must prove the existence of several of these elements. In the concept of the Anglo Saxon system, acts against the law are known as fault based liability, namely liability that requires an element of fault (Sodikin, 2018). This is in line with the elements that must be fulfilled in Article 1365 of the Civil Code, but in the understanding of the Anglo Saxon legal system, the element of fault is the main element in claims for compensation. Therefore, in Indonesia, Article 1365 of the Civil Code states that every unlawful act which therefore causes harm to another person, requires the person whose fault caused the loss to compensate for the loss (Sodikin, 2018). Thus, by understanding fault based liability in the Anglo Saxon legal system, the perpetrator of an unlawful act is responsible for the losses he causes. Therefore, the action and loss can be taken into account as a requirement for the claim. So, in Indonesia according to Article 1365 of the Civil Code, the perpetrator of an unlawful act is only responsible for the losses he causes, if the errors and losses can be calculated. Here blame is used to imply that someone is responsible for a harmful outcome. The elements of loss and error are directly related, because a loss is caused by an error. However, according to Article 1365 of the Civil Code, there are still other elements that must be proven, namely the elements of causality and relativity.

To clarify the elements contained in Article 1365 of the Civil Code, acts against the law (fault based liability) in the Anglo Saxon legal system are known as traditional liability. In this concept of responsibility, the priority is fault. Civil fault or *schuld* is also called *mens rea* which is the most important main object in determining whether someone is declared responsible or not. According to this traditional principle of liability, fault or *mens rea* is the obligation of the party who feels aggrieved, so they must be able to prove it. This is related to Article 163 HIR/183 RBg which is used in the Civil Procedure Law in Indonesia, which is an application of the Indonesian legal system which requires the party who feels disadvantaged to submit evidence to find fault with the party who committed the crime. Proving that there was a mistake is not easy, and will be very difficult because you must first prove that there is a causal relationship between the wrongdoing and the loss of the sufferer.

The heavy burden of proof in the form of errors in the development of science and technology has increased the burden of proof of elements of error when using the concept of unlawful acts. This is because it is a traditional liability and creates difficulties in predicting what will arise from a business or production activity whose risks are difficult to tolerate. Thus, the concept of unlawful acts as a concept for resolving civil disputes which requires the existence of an element of error in complex life in this era of technological progress is difficult to prove. Therefore, to anticipate the difficulty of proving the existence of an element of error, in Indonesia the concept of strict liability was developed which was adopted from the Anglo Saxon legal system. This is, even though Law Number 8 of 1999 concerning Consumer Protection does not explicitly regulate strict liability, but by interpreting Article 19 of Law Number 8 of 1999 concerning Consumer Protection, the concept of strict liability can be applied to civil lawsuits in the field of consumer protection.

As explained above, proving that there is a fault is not easy, because you must first prove that there is a causal relationship between the act, fault and loss. Here the plaintiff experienced difficulty in proving the causal relationship. The reality in practice is that there are differences in the applicable civil procedural law, because in accordance with the provisions of the applicable procedural law, the plaintiff must prove the element of causality. The need for proof by the plaintiff feels unfair, if the plaintiff has to prove the element of causality, because it is too difficult for them. Therefore, the concept of strict liability is a responsibility that does not prove the existence of an element of fault, but only proves the element of loss as the main element in the concept of a model of unlawful act. The element of loss is the main element in filing a lawsuit to claim compensation. This is where strict responsibility lies as a modern model of liability for unlawful acts. The element of loss is the

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legal basis for a lawsuit in court, and the element of fault is not the legal basis for filing a civil lawsuit in court. So, basically the concept of strict liability as a model of tort is an obligation of the plaintiff to the defendant who must prove the existence of a loss without having to prove the defendant's fault, if there has been actual loss to the plaintiff.

2. Consumer Protection and Business Actor Accountability

Law Number 8 of 1999 concerning Consumer Protection provides regulations regarding the rights and obligations between consumers and producers, which are regulated in Articles 4 to 7 of Law Number 8 of 1999. These rights and obligations are regulated so that consumers and producers have the same position. One of the most important aspects regarding the rights and obligations of the parties is the provision of clear and honest information regarding goods and services (Marpi, 2020). For consumers, rights are necessary, because a sense of security needs to be created for every human being with the right to fulfill their daily needs, so these rights need to be fulfilled and protected. Therefore, human rights to fulfill their daily needs are realized in their rights as consumers which are then guaranteed by law (Pratama, 2023).

There are rights and obligations between consumers and producers as business actors which are regulated in law to stop the imbalance between consumers and producers, because producers have capital power and are more organized and are also given ease in doing business by the government (Atsar & Apriani, 2019). The development of industry with easily available capital causes the production of goods and services to become increasingly complex. In addition, economic development and economic development, especially in the fields of industry and trade, have produced various goods and services that can be consumed by consumers. Likewise, globalization which supports free trade with advances in telecommunications and information technology has made it easier to transact goods and services across a country's territorial boundaries. The goods and services offered vary both from within the country and abroad. Such conditions are actually beneficial for consumers because consumers' needs for desired goods and services can be met, but because economic development and industrialization are very strong, consumers become weak.

This position shows that business actors and consumers are unbalanced so that consumers are in a weak position. In addition, consumers become objects of business activity for business actors to gain maximum profits by various sales promotion methods that will harm consumers. Another factor that is a weakness for consumers is that the level of consumer awareness of their rights is still low. This is due to low consumer education, resulting in ignorance of their rights as consumers or ignorance of the quality of the products they will buy. What often happens is that the conditions and conditions of consumers are weak compared to business actors. This causes consumers to often not sue business actors even though consumers have experienced losses due to the actions of business actors. This, coupled with the economic value experienced by consumers as a result of violations of their rights by relatively small business actors, means that consumers do not file lawsuits or demands against business actors (Panjaitan, 2021).

Law Number 8 of 1999 concerning Consumer Protection is the legal basis for consumers through legal action, namely a lawsuit for compensation. There is legal action through lawsuits in court with the hope that business actors will become aware of it. They try with the economic principle of getting the maximum possible profit with the minimum possible capital. This principle has the potential to harm consumers both directly and indirectly. Legal tools that protect consumers through lawsuits in court do not mean to kill the businesses of business actors or producers, but to encourage a healthy business climate in facing competition through the provision of quality goods and services.

Civil lawsuits using the concept of unlawful acts using the strict liability model actually have their legal basis in Article 19 paragraphs (1) and (3) of Law Number 8 of 1999 concerning Consumer Protection. Article 19 paragraph (1) states that "Business actors are responsible for providing compensation for damage, pollution and/or loss to consumers resulting from consuming goods and/or services produced or traded", and paragraph (3) states that "Providing Compensation is carried out within a period of 7 (seven) days after the transaction date". The sentence contained in Article 19 paragraph (1) is "business actors are responsible for providing compensation...". This paragraph is interpreted as regarding compensation for losses resulting from an unlawful act, so that every unlawful act brings harm to other people (*Elke onrechtmatige daad, waardoor aan een ander schade wordt toegebracht...*) (Widiyastuti, 2020) must provide compensation. The act of a business actor producing its production results which, according to Article 19 paragraph (1) of Law Number 8 of 1999, results in "damage, pollution and/or loss to consumers as a result of consuming the goods and/or services produced or traded" is an unlawful act, because other people who feel their rights have been violated. Therefore, every action that causes harm to another person must be compensated.

According to David Oughton, as quoted by Sari Murti, by interpreting unlawful acts as torts, and that torts have a role that is related to the problem of preventing economic losses (Widiyastuti, 2020). This is related to the problem of trading activities in goods and services which causes losses. Therefore, the concept of unlawful acts has a role in protecting economic interests, especially consumers, so the use of the provisions of this legal concept can be interpreted as achieving results efficiently. Consumer

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protection through Article 19 paragraph (1) of Law Number 8 of 1999 means that consumers as plaintiffs expect compensation and plaintiffs must also suffer losses. The purpose of Article 19 paragraph (1) of Law Number 8 of 1999 is compensation for losses, so that here the plaintiff (in this case the consumer) must suffer a loss, then the business actor (producer), whether they do or not, is the cause of the loss.

Furthermore, Article 19 paragraph (3) of Law Number 8 of 1999 states "there is provision of compensation which must be carried out within a grace period of seven days after the date of the transaction". Article 19 paragraph (3) is related to Article 2 of Law Number 8 of 1999 concerning the principles of consumer protection, namely the principles of benefit, justice, balance, security, consumer safety and legal certainty. The relationship between Article 19 paragraph (3) and Article 2 of Law Number 8 of 1999, explains that if the business actor is proven in court, immediately within seven days after the date of the transaction he is obliged to pay compensation. Paying immediate compensation is a fulfillment of the principles of benefit, justice, balance, security, safety and consumer legal certainty contained in Law Number 8 of 1999. Therefore, by adhering to the Anglo Saxon legal system, the responsibility of business actors in terms of products Liability according to the common law system or Anglo Saxon legal system does not require an element of fault. In such a legal construction, it is impossible to reverse prove the element of fault, because strict liability is referred to as liability without fault (Widiyastuti, 2020).

The development of this theory of responsibility is actually a reflection of the demands for a sense of justice expected by consumers. The complexity of problems and human behavior continues to change from time to time, so there is a need for legal theory to answer the challenges of the times to fulfill consumers' sense of justice. The legal doctrine of strict liability is the right answer to fulfill a sense of justice for consumers who demand their rights for the losses they experience from the products offered by producers. Strict liability is a legal doctrine that requires someone to be responsible for damage caused or caused by a product (Kemen LHRI, 2003). Thus, the legal doctrine requires that those responsible for business actors whose activities produce and market products that pose a danger to the health and lives of humans or consumers, are absolutely responsible for the losses incurred with the obligation to pay compensation directly and immediately when the health hazard occurs and consumers' lives.

3. Production of Business Actors Sued by Consumers

Business actors in producing goods and services can cause harm to consumers which can have dangerous impacts on human health and life. In general, the types of production activities of goods and services will always develop in accordance with developments in science and technology as well as developments in society in general. The thinking must be directed at formulating and creating criteria that can determine whether an individual activity in concrete includes activities that result in production which then endangers consumers. Therefore, it is necessary to determine the type of product consumed by consumers that poses a danger. The claim for compensation uses legal action with absolute responsibility. Judges can determine the forms of danger and criteria for a product that can be subject to the doctrine of absolute liability. The plaintiff does not need to prove whether or not there was civil error or negligence on the part of the defendant, what is important here is that the judge must decide that there has been a loss for the consumer as the plaintiff.

The author gives an example of a business or activity whose production results can be subject to the strict liability doctrine. *First*, financial technology or often called Fintech. Fintech is currently assisted by the internet, which has definitely encouraged the emergence of many startup companies in the financial sector in terms of online loans based on information technology (fintech) peer to peer lending or commonly called P2P Lending (Novinna, 2020). Technology-based fast loan fintech supervised by the Financial Services Authority. Business actors may be negligent in safeguarding consumers' personal data, thereby giving rise to legal problems in collecting debts from consumers. Illegal dissemination of consumer data carried out by debt collectors as third parties who carry out collections in an unlawful manner against consumers as customers who receive loans who fail to pay (default). This is of course that business actors have neglected to carry out their duties regarding their obligations to supervise and prevent abuse of authority (Novinna, 2020). Consumers as the injured party do not have to prove that there is an element of error committed by the business actor, but can sue the business actor.

Second, other cases, for example e-commerce cases which relate to on-line transactions. E-commerce is the impact of technological developments, so that transactions in e-commerce include through buying and selling offers and online buying and selling acceptance (Basri, 2019). Rapid developments in the field of telematics have caused existing positive law to lag behind and no longer be able to reach technological developments. Current laws and regulations are not yet able to protect consumers. Trading via e-commerce in the form of buying and selling does have several things that are generally agreed upon between buyers and sellers. However, it is not uncommon for sellers to cheat or buyers to cheat. Because consumers are the object of business for business actors to obtain maximum profits, they can commit fraud and ultimately harm consumers, because consumers have a weak bargaining position. Consumers cannot identify goods to be ordered via the internet, and also the information received is one-sidedly created by the seller, without the consumer verifying it. Consumers must first pay in full for the goods ordered, then

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the goods reach the consumer. If there is a loss on the part of the consumer, the consumer can sue the court as a result of the unlawful act committed by the business actor without having to prove whether or not there was an error. Consumers only prove that they have experienced losses.

Third, cases that occurred during the Covid-19 pandemic were cases of fake vaccines. Although this case is a criminal law case and is threatened under the Criminal Code, Law Number 8 of 1999 and Law Number 36 of 2009 concerning Health are civil law cases. This is because there are parties who feel disadvantaged, namely consumers or the public. There is a possibility that cases of fake vaccines that have occurred in the future could happen again, because there are business actors who do naughty things. There are people's rights that need to be protected in the event of fake vaccines. Law Number 8 of 1999, especially Article 4, provides consumer protection, namely the rights obtained from fake vaccine products. As consumers have the right to obtain comfort, security and safety in consuming goods and services; obtain correct, clear and honest information regarding the condition and guarantee of goods and services; and receive compensation, compensation and replacement, if the goods and services received are not in accordance with the agreement or are not as they should be (Geovanie & Dana, 2021). The principle of strict liability in consumer protection law is used to ensnare business actors, especially goods producers who market their products to the detriment of consumers. According to the principle of strict liability, producers are obliged to be responsible for losses suffered by consumers due to the use of the products they market. Compensation can be in the form of a refund or replacement of goods or services of the same or equivalent value or health care or providing compensation in accordance with statutory provisions (Geovanie & Dana, 2021).

Fourth, cases in the banking sector which result in losses experienced by customers as consumers. This happens because of limited consumer knowledge which causes people to suffer losses from placing funds or utilizing services at financial services institutions (banking). Banks as producers cannot simply seduce potential consumers with low interest rates, but in the end make business relationships between consumers and business actors become a matter of dispute (Laksono et al., 2022), because consumers suffer losses. There are several banking crimes that result in customers (consumers) being harmed, such as skimming (an act of stealing banking customers' data using a recording device as a medium, and this usually occurs on ATM machines and also EDCs); Phishing (an act of stealing customer information by searching for or hacking IDs and passwords, even breaking into banking customers' credit cards); Malware (the perpetrator enters data in the form of a virus into the customer's network by breaking into the data warehouse of the banking service provider, this action is rarely found because the perpetrator only needs to use a laptop/computer as a medium without the need for physical contact) (Laksono et al., 2022). The sophisticated technology used by criminal results in losses experienced by consumers. The strict liability doctrine can be used by consumers to determine fault rather than as a determining factor (Marcelliana et al., 2023). The rights of banking consumers are protected by the strict liability doctrine to claim compensation.

Fifth, another case is in the food sector, and food is a type of goods that is widely consumed by consumers. Regarding halal issues and whether or not the marketed food is suitable for consumption, consumers need to know the information. For example, the amount of food that is forbidden according to Islam may be very small, but with the progress and development of science and technology which has produced various processed food products by adding various additional ingredients whose halal is not clear, this can endanger the health of consumers (Putri Cahyani, 2021). Likewise with other types of food, including their shelf life, consumers need to know information about the food being distributed or marketed. If consumers feel that they have been harmed by the food products they have consumed, then the business actors are responsible, meaning they are obliged to bear everything that happens (Sakti et al., 2015). This is, almost all the characteristics of risks or responsibilities that depend on or include all the characteristics of actual rights and obligations such as losses, threats, crimes, costs or conditions that create a duty to carry out the law. Business actors are absolutely responsible for implementing the law.

Sixth, cases in the service sector, with various services produced by business actors, such as transportation services (both on-line and off-line), hotel services, expedition services, health services, transportation services, and others. Consumers who use services have rights as regulated in Law Number 8 of 1999. This means that if their wishes are not fulfilled when using the services provided by the business actor, the consumer demands compensation for the losses experienced in using the services provided by the business actor. Business actors providing services are activities to provide satisfaction to consumer desires. If the consumer has paid a certain amount of money, but the producer does not provide what the consumer wants. Claims for compensation can be submitted to court through a strict liability lawsuit. The manufacturer has violated the law because it does not provide services as specified in the law.

The existence of such cases means that business actors are absolutely responsible for the losses incurred with the obligation to pay compensation directly when the losses occur. Actions of business actors that cause losses to consumers, whether intentionally or negligently, can be prosecuted, and in accordance with Article 118 HIR, a lawsuit must be filed with a lawsuit letter to the district court in accordance with the authority of that court. In this case, the plaintiff does not need to prove that there is

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an element of fault by the defendant, but the plaintiff must prove that there is a causal relationship, namely the loss experienced by the plaintiff which is the result of the defendant's actions, namely producing goods or services that harm the plaintiff.

IV. CONCLUSION

The development of legal science has changed the concept of unlawful acts in Article 1365 of the Criminal Code with a strict liability model. The concept of tort with the strict liability model is a model of tort with a plaintiff's obligation to the defendant to prove the existence of a loss without having to prove the defendant's fault. Legal action through the concept of unlawful acts with a strict liability model is one of consumer protection, namely by interpreting Article 19 paragraphs (1) and (3) of Law Number 8 of 1999 concerning Consumer Protection. This is because in Article 19 paragraph (1) of Law Number 8 of 1999 there is the sentence "responsible for providing compensation", which means there is a concept of an unlawful act. Article 19 paragraph (3) of Law Number 8 of 1999 contains the sentence "the provision of compensation is carried out within a grace period of 7 (seven) days", which means that claims for compensation must be paid directly without having to prove the element of intent or negligence of an error. The interpretation of Article 19 paragraphs (1) and (3) of Law Number 8 of 1999 is as an effort to protect consumers.

REFERENCES

- 1) Apriani, R. & Abdul. A. (2019). *Buku Ajar Hukum Perlindungan Konsumen*. Deepublish Publisher.
- 2) Atikah, I. (2020). *Perlindungan Hak-Hak Konsumen Dalam Hukum Negara*. Media Madani.
- 3) Basri, H. (2019). Perlindungan hukum terhadap konsumen dalam melakukan transaksi e-commerce ditinjau dari Undang-Undang Perlindungan Konsumen Undang-Undang Nomor 8 Tahun 1999 (Studi Kasus Kerudungbyramana Bandung). *Pamulang Law Review*, 2(2), 131–140.
- 4) Bustomi, A. (2018). Tanggung Jawab Pelaku Usaha terhadap Kerugian Konsumen. *SOLUSI*, 16(2), 154–166. <https://doi.org/ersitas Palembang> <https://doi.org/10.36546/solusi.v16i2.125>
- 5) Dariah, A. R. (2005). Perdagangan Bebas : Idealisme Dan Realitas. *Mimbar*, 21(1), 115–126. <https://ejournal.unisba.ac.id/index.php/mimbar/article/view/167/pdf>
- 6) Diyatmika, K. P. S., Widiati, I. A. P., & Karma, N. M. S. (2020). Pertanggungjawaban dan Penyelesaian Sengketa Konsumen Berkaitan Dengan Perdagangan Parsel. *Jurnal Analogi Hukum*, 2(3), 393–398. <https://doi.org/10.22225/ah.2.3.2500.393-398>
- 7) Djamiati, T. S. and Philipus. M. H. (2005). *Argumentasi Hukum*. Gadjah Mada University Press.
- 8) Frisca. (2021). *Apakah Itu Perbuatan Melawan Hukum?* <https://lbhpengayoman.unpar.ac.id/apakah-itu-perbuatan-melawan-hukum/>.
- 9) Fuady, M. (2004). *Perbuatan Melawan Hukum Pendekatan Kontemporer*. Citra Aditya Bakti.
- 10) Greacy Geovanie, D., & Reza Arya Dana, K. B. (2021). Perlindungan Konsumen Terhadap Kasus Vaksin Palsu Dalam Perspektif Undang-Undang. *Jurnal Locus Delicti*, 2(1), 1–12. <https://doi.org/10.23887/jld.v2i1.454>.
- 11) Hukumonline.com. (2004). *Hakim: Pasal 1365 dan 1372 KUH Perdata Tidak Bisa Digabungkan*. <https://www.hukumonline.com/berita/a/hakimi-pasal-1365-dan-1372-kuh-perdata-tidak-bisa-digabungkan-hol10919/>
- 12) Indonesia, K. L. H. R. (2003). *Pedoman Umum Penyusunan Gugatan Strict Liability Lingkungan Hidup*. Deputi Urusan Penegakan Hukum.
- 13) Kusumahpraja, R. K. (2021). *Tindakan Rekayasa Penyidik Sebagai Perbuatan Melawan Hukum Perdata (Ratio Decidendi Hakim Dalam Sebuah Perkara)* (R. Utami (ed.); 1st ed.). CV. Amerta Media.
- 14) Laksono, H. D., Prabowo, I. H., & Budhi, A. S. (2022). Optimalisasi Perlindungan Konsumen Perbankan Berdasarkan Uu No 8 Tahun 1999. *Prosiding HUBISINTEK*, 8, 636–641.
- 15) Mamudji, S. and Soekanto, S. (1994). *Penelitian Hukum Normatif–Suatu Tinjauan Singkat*. Raja Grafindo Persada.
- 16) Marcelliana, V., Adzani, N. N., Zahra, S. M., Massaid, H. N., Badriyyah, N., Benita, R., Sukarto, M., Fitriani, C. N., & Bayhaqi, T. A. R. (2023). Penerapan Perlindungan Konsumen Terhadap Nasabah Pt . Bank Syariah Indonesia. *Jurnal Publikasi Ilmu Hukum*, 1(2), 180–194. <https://doi.org/https://doi.org/10.59581/deposisi.v1i2.577>.
- 17) Margono. (2019). *Asas Keadilan, Kemanfaatan dan Kepastian Hukum Dalam Putusan Hakim*. Sinar Grafika.
- 18) Marpi, Y. (2020). *Perlindungan Hukum Terhadap Konsumen atas Keabsahan Kontrak Elektronik dalam Transaksi E-Commerce*. PT. Zona Media Mandiri.
- 19) Muhammad, A. (2004). *Hukum dan Penelitian Hukum*. Citra Aditya Bakti.
- 20) Novinna, V. (2020). "Perlindungan Konsumen dari Penyebarluasan Data Pribadi oleh Pihak Ketiga: Kasus Fintech Peer" To

The Concept of Unlawful Act with the Strict Liability Model in Consumer Dispute Resolution in Indonesia

Peer Lending. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 9(1), 92–110. <https://doi.org/10.24843/JMHU.2020.v09.i01.p07>.

- 21) Panjaitan, H. (2021). *Hukum Perlindungan Konsumen, Reposisi dan Penguatan Kelembagaan Badan Penyelesaian Sengketa Konsumen Dalam Memberikan Perlindungan dan Menjamin Keseimbangan Dengan Pelaku Usaha*. Jala Permata Aksara.
- 22) Pratama, C. D. (2020). *Hak dan Kewajiban Konsumen*. Kompas.Com. <https://www.kompas.com/skola/read/2020/12/31/142912169/hak-dan-kewajiban-konsumen>.
- 23) Prodjodikoro, W. (1984). *Perbuatan Melanggar Hukum*. Sumur Bandung.
- 24) Putri Cahyani, G. (2021). *Analisis Kehalalan Produk Makanan Dalam Upaya Perlindungan Konsumen Bagi Umat Muslim Dalam Perspektif Ekonomi Islam (Studi Kasus Pasar Simpang NV Kabupaten Lampung Timur)*. Universitas Islam Negeri Raden Intan Lampung.
- 25) Rasjidi, L. & Lisa, R. (2009). *Monograf: Filsafat Ilmu, Metode Penelitian, Dan Karya Tulis Ilmiah Hukum*.
- 26) Sakti, M., Aryanti, D., & Yuli W, Y. (2015). Perlindungan konsumen terhadap beredarnya makanan yang tidak bersertifikat halal. *Jurnal Yuridis*, 2(1), 62–77. <https://doi.org/https://doi.org/10.35586/.v2i1.161>.
- 27) Sodikin. (2018). *Penegakan Hukum Lingkungan Menurut Undang-undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup*. In Media.
- 28) Sutedi, A. (2008). *Tanggung Jawab Produk Dalam Hukum Perlindungan Konsumen*. Ghalia Indonesia.
- 29) Widiyastuti, S. M. (2020). *Asas-Asas Pertanggungjawaban Perdata (Bagian Pertama)*. Cahaya Atma Pustaka.