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Abstract

This research examines the exoneration clause's application in consumer protection in Bena Village, South Amanuban District, South Central Timor Regency. The data collection methods were interviews and literature study, with data processing and analysis carried out descriptively and qualitatively. The research results show that the application of the exoneration clause occurs in mixed-type food stalls and kiosks, while it does not apply to service businesses. Factors that influence the implementation of exoneration clauses include a need for more education from the government regarding these clauses and a lack of independent consumer literacy. In conclusion, implementing the exoneration clause in consumer protection in Bena Village is not optimal, and it is recommended that there be outreach to consumers and business actors to increase awareness of consumer rights and replace unsuitable products with better ones.

Keywords: Clause, Exoneration, Protection, Consumers, Business Actors

1. Introduction

Indonesia is a unitary country in the form of a Republic based on Pancasila (Junaidi & Prakoso, 2021; Amelia et al., 2022; Santoso, 2020). This is contained in the 1945 Constitution, which states that one of the goals of the Indonesian State is to participate in implementing a world order based on independence, eternal peace, and social justice (Emilia et al., 2022; Utami, 2020; Widodo & Galang, 2019; Arief & Purnomo, 2023). In Article 27 Paragraph 1 and Article 28A of the 1945 Constitution, it is stated that "All citizens have the same position in the law and government and are obliged to uphold the law and government without exception" and "Everyone has the right to live and the right to defend his or her life and livelihood."

The statement above implies that all citizens have the same position, are obliged to uphold the law, and have the same rights to life. However, the empirical reality is that in society it is often found that business actors have implemented clauses on shops, shophouses, and public transport vehicle services with the aim of not causing harm to the business actors at any time. However, unknowingly, the implemented clause has harmed consumers because it is in direct conflict with legal regulations, namely the Consumer Protection Law which is regulated in Law Number 8 of 1999.

Thus, the application of the clause by business actors violates several consumer rights, namely comfort and safety in consuming goods and/or services as well as obtaining compensation, compensation and/or replacement if the goods and/or services received are not suitable (Lusita et al., 2022). However, in reality, there are many incidents where business actors apply this exoneration clause to release their responsibility for the food/goods they produce/sell. A phenomenon that really attracts our attention is when business actors have implemented this exoneration clause to anticipate future losses for the business actor. In various types of businesses, such as kiosks, shophouses, and public transport vehicle services, exoneration clauses have been implemented, namely as follows:

- 1) Goods that have been purchased cannot be returned;
- 2) Items that have been purchased cannot be exchanged for any reason;
- 3) Broken items mean buying;
- 4) Lost or exchanged goods are the responsibility of the consumer.

Looking at the two exoneration clauses above, it means that business actors are trying to limit their responsibility for goods/services that have been purchased or used by consumers. Thus, consumer protection must be immediately implemented comprehensively in everyday social life. This is very important, considering that consumer protection has become one of our concerns because it is closely related to society as consumers. Based on the background that the researcher has described, the researcher is interested in studying further regarding business actors who apply exoneration clauses to anticipate losses that arise at any time with the title “Application of Exoneration Clauses in Consumer Protection given Law of the Republic of Indonesia Number 8 1999 concerning Consumer Protection in Bena Village, District. South Amanuban, Kab. South Central Timor”.

Based on the problems raised, the aim achieved in this writing is to find out the application of the exoneration clause as a prohibited act in consumer protection is reviewed from the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection in Bena Village, District. South Amanuban, Kab. South Central Timor. And to find out the factors that influence the application of the exoneration clause in consumer protection in Bena Village District. South Amanuban, Kab. South Central Timor.

2. Methods

This research was conducted in Bena Village, located in the South Amanuban District of the South Central Timor Regency. It falls under the category of empirical research, which implies that it was grounded in real-world observations and data collection. The study incorporated primary and secondary data sources to explore specific aspects of applying exoneration clauses in consumer protection and the factors influencing them.

Data Sources

Primary data was collected directly from the field through interviews. Researchers likely engaged with individuals directly involved in consumer-business interactions to gather firsthand information and insights. Secondary data refers to information obtained from existing sources, such as academic literature, government regulations, and reports from relevant organizations. This data was used to provide context and background information for the study.

Study Population and Sampling

The research considered two key groups within the population—business actors and consumers. These groups represent the primary stakeholders in consumer-business relationships.

Sampling Technique: The research employed a saturated sampling technique. This approach involves collecting data from every available member of the population who meets the criteria for inclusion in the study. In this case, researchers likely aimed to gather information from all eligible business actors and consumers in Bena Village.

Data Collection Techniques

Researchers conducted interviews as a primary method of data collection. They engage in dialogues with business actors and consumers to understand their perspectives, experiences, and insights regarding the application of exoneration clauses and the factors influencing them.

Literature Study: In addition to interviews, researchers conducted a literature study. This involved reviewing existing literature, documents, and relevant sources to gather background information, legal context, and academic insights related to the study's focus.

Data Analysis and Conclusions

The collected data underwent a two-fold analysis process—descriptive and qualitative. Descriptive analysis likely involved summarizing the gathered information, while qualitative research delved deeper into the nuances and meanings behind the data. Based on the results of the data analysis, the researchers concluded. These conclusions were removed to provide insights into the application of exoneration clauses in consumer protection and the factors influencing their usage.

In summary, this empirical research conducted in Bena Village involved collecting primary data through interviews and secondary data from relevant sources. It aimed to understand how exoneration clauses in consumer protection were applied and what factors influenced their application. The research included business actors and consumers as its study population and employed a saturated sampling technique to gather data from all eligible participants. The analysis involved both descriptive and qualitative approaches, and conclusions were derived from the data analysis to shed light on the research objectives.

3. Results and discussion

In general, the Exoneration Clause is an act that is prohibited in the Consumer Protection Law because the exoneration clause itself is an act or action to free oneself or a business entity from proper responsibility. This clause has been consciously or unconsciously implemented in everyday life, and the impacts or losses have been experienced by consumers. There is no responsibility from the shopping center in the vehicle parking area if a helmet or other customer's belongings are lost in the parking area. Here, it can be seen that the position of business actors is stronger than that of consumers. If losses or impacts occur due to the loss of helmets or consumer belongings in the parking lot, it is not uncommon to find that business actors or shopping center owners will try to avoid this. Responsibility for consumer losses.

The research results show that the implementation of exoneration in Bena Village, South Amanuban District, South Central Timor Regency has yet to be implemented well because there are still business actors responsible for their actions towards consumers. Still, on the other hand, business actors are not accountable. For activities that are detrimental to consumers. For more details, it can be described in the following table:

Table 1

Responses from Respondents (Consumers) for Warung Business Actors

No.	Category	F	P
1	Responsible	3	33.33
2	Not responsible	6	66.67
	Amount	9	100

Source: Primary Data

Based on the data presented in the table above, it shows that from the consumers of the restaurants studied, the answer was obtained that there were three consumers (33.33%) who stated that there were business actors responsible for losses caused by negligence in service to consumers. Who buy food and drinks at their place of business, while six other consumers (66.67%) stated that business actors are not responsible for losses caused by negligent service to consumers who buy food and drink.

In terms of responsibility, this is where when consumers complain if service negligence is found, such as the food ordered being stale, the business actor immediately apologizes for the failure and replaces it with a new one. Sometimes, the business actor gives a discount for the unpleasant incident experienced by the consumer at the time. Order food at the business premises.

In terms of irresponsibility, this is when consumers complain if service negligence is found, such as the food ordered being stale, the business actor does not replace it with a new one because the food is the last in stock, or the business actor is indifferent to the complaint and causes the consumer to leave. And sometimes forced to pay for the food that has been ordered without finishing the food that has been ordered. More details can be described in the following Table 2.

Table 2

Responses of Respondents (Consumers) for Mixed-Type Business Actors

No.	Category	F	P
1	Responsible	3	33.33
2	Not responsible	6	66.67
Amount		9	100

Source: Primary Data

The table above shows that from 9 consumers studied, answers were obtained about buying and selling goods transactions carried out in mixed-type shops between business actors and consumers. There were three consumers (33.33%) who stated that when they purchased goods that were expired or damaged/defective, the business actor was willing and responsible to replace or exchange them with suitable goods, while there were six consumers (66.67%) when researched, stated that when they complained about buying and selling goods that were expired, defective or damaged, business actors were not responsible for replacing or exchanging them with suitable goods.

Regarding responsibility, this is when there are goods or food products that are no longer suitable for sale, such as having expired or approaching the expiry date, damaged goods, or glassware that has been cracked and found and complained about by consumers. The business actor immediately apologizes for the business actor's negligence in selling, not being careful with business actors, and replacing goods or food products with new ones. Sometimes, business actors discount these goods or food products to consumers who experience this.

In terms of irresponsibility, this is when there are goods or food products that are no longer suitable for sale, such as having expired or approaching the expiry date, damaged goods, or glassware that has been cracked and found and complained about by consumers immediately. Business actors often do not replace them with new ones. It's fresh, and business actors often blame consumers because they are not careful with the excuse of "not reading before buying." there is no apology. Business actors often act indifferent to what happens to the consumer.

Based on the explanation above, it can be said that indirectly and without consumers realizing it, business actors have established exoneration clauses to anticipate losses arising from buying and selling transactions between business actors and consumers. The data in the two tables above are supported by supporting data, which contains the names of businesses, business owners, and consumers whom researchers have interviewed. As for these data (see Table 3).

Table 3

Name, business owner, and type of business

No	Business name	Business owner	Type of business
1	Kiosk Yes Ate	M Mallo	Mixed Stall
2	Beautiful Beach Shop	A. Leokana	Mixed Stall
3	Rio Kiosk	JO Talan	Mixed Stall
4	Ruba Deo Kiosk	W. Lede Kana	Mixed Stall
5	Kios W. Kasih	J. Huki	Mixed Stall
6	Fera Kiosk	Benjamin Riwu	Mixed Stall

7	Shop 88	Agustina Konay	Roadside stall
8	Solo Meatball Stall	Sis Lia	Roadside stall
9	Irma's Restaurant	Serly Tamonob	Roadside stall
10	Unnamed Stall	Ms. Ita	Roadside stall
11	Unnamed Stall	Nathan Bisinglasi	Roadside stall

Source: Secondary Data

Based on the problem formulation that has been formulated and the results of the research carried out, in this section, the results of the interview with Mr. Fredik Nenometa as Head of Trade at the Department of Trade, Industry, Cooperatives and MSMEs of South Central Timor Regency will be explained. The main task of the Industry and Trade Service is to supervise the activities of each type of business in the South Central Timor Regency area. Socialization was also carried out regarding consumer protection from dangers and losses resulting from business actors' negligence in carrying out their responsibilities.

The socialization carried out by Disperindag is by way of notification for business actors to take part in activities carried out by Disperindag regarding the rights and obligations of each party, both as business actors and consumers. Apart from that, written information was also distributed as brochures for business people and consumers. The distributed leaflets contain information about the invitation to become intelligent consumers. The widespread circulation of goods and/or services in the market tricked consumers into choosing according to what they see or want, not what they need. To avoid the damaging excesses of using an item, consumers should carefully select the goods and/or services they consume.

According to Mr. Fredik Nenometa as Head of Trade, Disperindag Kab. TTS, after socialization, will continue with action against business actors who do not carry out their obligations by applicable regulations by confiscating and destroying products that have expired and goods that are damaged but are still sold for profit. Bena Village, District. South Amanuban, Kab. South Central Timor is a village that is prone to food poisoning and the sale of damaged goods or expired food products.

This is because the supply of goods is carried out not only by business actors registered with the local government but also by immigrants who take advantage of market days to trade their interests, so it is difficult to control. After the goods or products have been sold, the business actors return to their places of origin. Bena Village is a trans village where access in and out is very easy, causing the District Industry and Trade Department. It is difficult for TTS to identify the existence of unregistered business actors, so usually, after a new case is identified, a deadlock occurs during the identification process for reasons as explained above.

Furthermore, Mr. Fredik Nenometa, Head of Trade, Disperindag Kab. TTS said that food poisoning occurred because the business actors selling the food were business actors from outside Bena Village and peddled their wares on market days. The method used by Disperindag Kab. TTS, namely holding outreach and appeals and distributing brochures/leaflets, so that business people check expired goods to understand better the dangers of selling expired food products so they can be more careful.

If found by Disperindag Kab. TTS, then expired products are separated from other products, or told not to be displayed or sold again, however, there are some goods that are forced to be sold in the hope that they will remain separated and every business actor is still advised to always notify every consumer to always check the goods or food products purchased and if the goods, in this case, are damaged goods, food products that have expired or goods or food products that are not suitable for sale and purchase in quantities that are not too large, then the business actor can destroy them himself provided that this is done in the presence of Kab. Disperindag officer. Crossword.

For supervision carried out by Disperindag Kab. TTS every one year because management is carried out not only in Bena Village but also in other villages where the Disperindag Kab. TTS oversees 32 sub-districts. Even though the location is the same, even though the sub-districts are different, they will still be supervised. The District Industry and Trade Department carries out the mechanism. TTS consists of warning, confiscation, and destruction.

Before the reprimand, confiscation, and destruction occurred, Disperindag Kab. TTS carried out outreach by distributing brochures to every business actor and consumer, and this continued until 2018 (before COVID-19 hit Indonesia), and after the socialization was abolished following the latest regulations which stated that there would be no mass gatherings so that The only way for business actors and consumers to receive this education is when the District Industry and Trade Department officers. TTS is involved in carrying out supervision so that education or socialization continues during charge.

If some goods or products are not suitable for sale and purchase in small quantities, they can be destroyed in front of officers at that time; however, if they are in large amounts, then the District Industry and Trade Department. TTS itself brought the expired goods to be destroyed.

After the socialization has been carried out, as time goes by, every business actor with goods or food products that are nearing their expiry date will be sold at a lower price than usual, or what is usually called a "sale/discount" or if the goods or products take a long time to sell, then Business actors will do the same thing, namely sell at a lower price.

According to Mr. Fredik Nenometa as Head of Trade, Disperindag Kab. TTS, there are often conflicting rules, where Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection with the Health Law stipulates a 7-day standstill period (the conflict is contained in Article 8); however, the standstill period rarely occurs; but guarantees are given for exchange and taken back by Disperindag Kab. Crossword.

For pickup car consumers (passengers) who were met during the research, information was obtained that when using transportation services to transport people and goods from one place to another, goods are rarely left behind or mixed up because when passengers get off, they usually immediately check the correctness of the goods, which is carried or transported jointly between the driver and passenger to ensure that no errors occur in the pickup service for passengers.

Meanwhile, the travel car that passes through Besa village travels on the Kupang to Malacca and Malacca to Kupang routes via the Southern way. The passengers met during the research provided information that the travel services used accommodate passengers with a limited capacity, a maximum of 7 passengers with little luggage. Negligence in service as a result of goods being exchanged rarely happens. There have been passengers whose goods were left behind, but after the driver is contacted and the passenger's interests are left in the car, usually they will be delivered the next day, or if the passenger needs the goods, they will pick them up themselves in the garage of the travel car in question.

From the explanation above, it can be concluded that the exoneration clause applies to businesses whose consumers are unlimited and cannot be controlled, in this case mixed type restaurant and kiosk businesses. Meanwhile, the application of this clause to service-type businesses only applies if consumers from service businesses can be controlled and consumers are limited, so this exoneration clause is very rare in daily life in Bena Village, District. South Amanuban, Regency. South Central Timor.

Factors Influencing

The main factors influencing the implementation of this exoneration clause are the lack of education from the TTS District Department of Industry and Trade as the government

regarding what an exoneration clause is so that unconsciously, this clause has been applied by business actors to consumers as well as the lack of independent literacy from consumers regarding the exoneration clause.

Based on the research results, this section will explain several factors that influence the implementation of the exoneration clause in Bena Village as follows:

- a) Business actors' lack of accuracy in checking their products before they are bought and sold results in them becoming victims as well as consumers. This happens because there are so many products being bought and sold by business actors that business actors are piling up their products without looking at the expiry date or seeing that the products being traded are no longer suitable and the layout of the business premises does not support so many products so that business actors are piling up the products so just.
- b) Not all of the business actors who buy and sell their products come from Bena Village, so if a poisoning case occurs, it will be difficult for the government to identify which business actors should be responsible. Bena Village is a village that is prone to cases of food poisoning and not infrequently every year it experiences an Extraordinary Event (KLB) which claims so many victims. Bena Village is also a village with access to and from not only residents from Bena Village but also from Kupang City, Kupang Regency, as well as from the neighboring villages of Bena Village.
- c) Even though there has been socialization from the government for business actors and consumers to be more selective and careful, there is a lack of monitoring and evaluation carried out to ensure the extent to which the results of this socialization are implemented in the field. The lack of monitoring is caused by the government, in this case the Disperindag Kab. TTS oversees 32 sub-districts and monitoring is carried out only once (1) year which is not effective so there are still business actors who are free to buy and sell products that are no longer suitable or expired products.
- d) That market activities in Bena village do not take place every day, but only have market days a week. On market day, there are lots of business actors who come from outside Bena village, apart from business actors from Bena village where they all sell their goods and products on market day and after selling them the business actors return to their place of origin so this makes the government experience difficulty in identifying when extraordinary cases such as food poisoning occur.

4. Conclusion

Based on this research, the conclusions that can be drawn are as follows: The implementation of the exoneration clause as a prohibition on consumer protection in Bena Village has yet to be carried out properly by business actors, both from Bena Village and outside Bena Village. Even though there has been outreach regarding the dangers and risks to business actors, the sale of goods or food products that are not suitable still occurs. This causes difficulties in identifying responsible business actors when Extraordinary Events (KLB) occur that harm consumers. The factors that influence the implementation of the exoneration clause are also not optimal due to the lack of effective outreach to business actors and consumers. For this reason, it is recommended that every business actor be more careful in selling products, that business actors and consumers thoroughly check products before buying, and that the government carry out stricter supervision with more frequency and correctly identify business actors from outside Bena Village.

By implementing these suggestions, the application of the exoneration clause in consumer protection in Bena Village can increase. Business actors must be more careful in selling products, consumers must be more cautious in checking products, and the government must carry out more intensive and routine supervision. In this way, it can prevent cases of

food poisoning which have a negative impact, and reduce the loss or exchange of goods when using public transportation services. The government also needs to tighten the supervision of business actors from outside Bena Village so that they can properly identify cases of food poisoning. More frequent monitoring and better identification will help the government to more quickly find out the condition of products sold by business actors and maintain their quality and safety.

5. References

- Amelia, N. P., Sabila, I., & Asbari, M. (2022). Pancasila as a Paradigm of Science and Technology. *Journal of Information Systems and Management (JISMA)*, 1(2), 1-6.
- Arief, E., & Purnomo, H. (2023, April). Legal Politics Regarding the Application of International Treaties in Indonesia. In *International Conference On Law, Economics, and Health (ICLEH 2022)* (pp. 600-614). Atlantis Press.
- Emilia, S., Andini, M., & Asbari, M. (2022). Pancasila as a Paradigm of Legal Development in Indonesia. *Journal of Information Systems and Management (JISMA)*, 1(2), 22-27.
- Junaidi, M. E., & Prakoso, L. Y. (2021). Pancasila as the Basis for Indonesia's Universal Defense. *Journal of Social and Political Sciences*, 4(2).
- Lusita, L., Widiarty, W. S., & Tobing, G. L. (2022). Legal protection for consumers is related to standard clauses according to law number 8 of 1999 concerning consumer protection. *International Journal of Law*, 8(2), 7-13.
- Santoso, G. (2020). The structure development model of Pancasila education (Pe) and civic education (ce) at 21 centuries 4.0 era in Indonesian. In *Proceedings of the International Conference on Industrial Engineering and Operations Management* (Vol. 59, pp. 1046-1054).
- Utami, T. K. (2020). The existence of state policy guidelines in the perspective of ordering the order of laws and regulations. *International Journal of Research-GRANTHAALAYAH*, 8(12), 48-53.
- Widodo, W., & Galang, T. (2019, October). Poverty, Evictions and Development: Efforts to Build Social Welfare through the Concept of Welfare State in Indonesia. In *3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)* (pp. 260-263). Atlantis press.
- The 1945 Constitution of the Republic of Indonesia
Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection n