



Legal Protection For Consumers Of Refill Drinking Water In The City Of Ternate

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Abstract

This study aims to (1) determine the legal protection of consumers who are harmed by consuming refilled drinking water. (2) knowing the form of supervision of the relevant agencies on refill drinking water produced by refill drinking water entrepreneurs. The type of research used is juridical, a form of legal research that takes sources from library materials. However, to support the juridical research, an empirical type of research is also needed to determine how to implement the management of Drinking Water Depots. The results of this study indicate that so far, the efforts of refilling drinking water consumers in Ternate City to obtain their rights as consumers have not been maximized. This is because not many people are aware of the Consumer Protection Act. Likewise, with refill drinking water business actors in Ternate City, not all refill drinking water depots have permits or have registered their businesses with the relevant agencies. Whereas all matters relating to drinking water depots, including the conditions for their establishment, are explicitly regulated in the Decree of the Minister of Industry and Trade Number 651/MPP/Kep/10/2004 concerning Technical Requirements for Drinking Water Depots and their Trade. The supervision of the relevant agencies on refilling drinking water produced by refilled water entrepreneurs is also not running as it should. This is due to the lack of human resources.

Keywords: Refill Drinking Water; Water Depot; Consumer

A. Introduction

The essential human need in order to survive is drinking water. Even medical theory prioritizes drinking water as more important than other foods because it is known that the water in the human body reaches 68 per cent, and to stay alive, the water in the body must be maintained. On the other hand, the proliferation of refill drinking water businesses can potentially hurt consumers. The current issue is the low-quality assurance of the drinking water produced. At the same time, the public is not aware of or even does not know the quality of the drinking water they consume. Whereas the public as consumers has the right to know/obtain correct, precise, and honest information regarding the conditions and guarantees of a product.

The government has made various regulations regarding the management of refilled drinking water. This is to reduce or eliminate the factors that cause contamination of drinking water and the facilities used for processing, storing and distributing drinking water. These factors can be physical, chemical and biological. These physical factors can be in the form of inanimate objects ranging from smooth to rough, and natural conditions such as weather, vibration, impact, temperature and the like.



With the issuance of Decree of the Minister of Industry and Trade Number 651/MPP/Kep/10/2004 concerning Technical Requirements for Drinking Water Depots and their Trade and Regulation of the Minister of Health Number 43 of 2014 concerning Hygiene and Sanitation of Drinking Water Depots, it is expected to provide quality assurance of drinking water products produced. By refilling drinking water depots that meet the requirements for drinking water quality that support the realization of good and healthy business competition and in the context of protecting consumers.

Although the Minister of Industry and Trade Decree concerning Technical Requirements for Drinking Water and Trade Depots has been enacted, it does not necessarily protect consumers because currently, there are still drinking water depots that do not have permits. Many people still do not know their rights and obligations, both as consumers and as business actors.

In line with the mandate of the Preamble to the 1945 Constitution of the Republic of Indonesia, paragraph IV, consumer protection is critical (Setiantoro, Putri, Novitarani, & Njatrijani, 2018). Consumer protection is often used to describe protection in the legal field for consumers to ensure the fulfilment of the intended needs for things that can harm consumers (Shidarta, 2006). Article 1 point 1 of Law Number 8 of 1999 concerning Consumer Protection states that consumer protection is all efforts that guarantee legal certainty to protect consumers.

In Ternate City, based on preliminary data, some consumers feel disadvantaged because they buy refilled drinking water products that cannot be categorized as clean water because they have a particular taste or because there are fine deposits on the product even though the depot that produces the drinking water has pocketed the water. Permission from related parties. Consumers do not understand how to act to demand their rights, and there is a tendency to prefer to switch to consuming bottled drinking water/other refillable drinking water depots.

Literature review, Protection, according to Philipus M. Hadjon, is the protection of human dignity and human rights and the recognition of human rights possessed by legal subjects based on legal provisions originating from Pancasila and the concept of the rule of law (Phillipus M.Hadjon, 1987). Meanwhile, according to the Big Indonesian Dictionary, consumers are users of manufactured goods, recipients of advertising messages and service users.

Consumer protection is a term used to describe the legal protection provided to consumers to meet their needs from things that can harm consumers themselves. Article 1 point 1 of Law Number 8 of 1999 concerning Consumer Protection states, "Consumer protection is all efforts that ensure legal certainty for consumer protection".

Consumer protection has a broad scope, including consumer protection in obtaining goods and services, which starts from the activity stage to obtain goods and services to the consequences of using these goods and services (Janus Sibadolok, 2010).

In order to protect consumers in Indonesia from things that can cause harm to consumers, on April 20, 1999, the Government of Indonesia enacted Law Number 8 of 1999 concerning Consumer Protection. This law is intended to be a solid legal basis for the government and non-governmental consumer protection agencies to make

efforts to empower consumers through consumer development and education. With a solid legal basis, the protection of consumer rights can be carried out with complete optimism. However, it is not easy to expect the awareness of business actors that the economic principle of business actors is to get the maximum possible profit with the minimum possible capital. This principle can potentially harm consumers' interests, either directly or indirectly.

B. Research Method

writing in this research is juridical empirical. Juridical research is a form of legal research that takes sources from library materials. However, to support this juridical research, empirical research is also needed to find out how to implement the management of drinking water depots in the field.

1. Data Collection Techniques

a. Literature Study

That is collecting legal literature by reading the literature available at the Office of Industry and Trade and the Office of the Health Service as well as from some literature related to this research and is equipped with several laws and regulations governing the problem of refilled drinking water in Indonesia.

b. Observation

This is done by using an observation technique, namely observing and recording the facts and symptoms of the subjects studied relating to the problems discussed, namely the responsibility of business actors to consumer losses. The observation technique used is Random Sampling, observations made randomly on several research objects.

c. Interview

That is collecting legal materials by conducting interviews with drinking water depot business actors, raw water providers, and officials from relevant agencies such as the Industry and Trade Office and the Health Office regarding the problems discussed in this study.

2. Data Analysis Techniques

In this study, the analysis of legal materials used is descriptive qualitative, namely by paying attention to the facts that exist in practice, then compared with the data obtained from library research, so that answers and conclusions can be obtained about the problems that have been formulated.

C. Results and Discussion

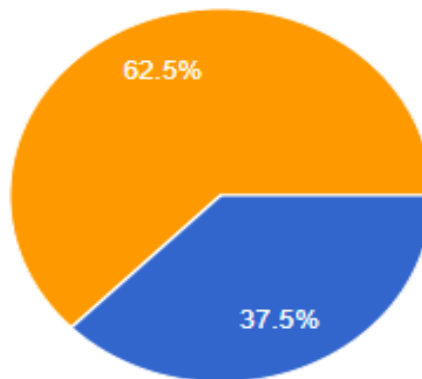
1. Legal protection for consumers who are harmed by drinking refilled drinking water

Consumers and business actors have a balanced or parallel relationship because they need each other (Herlina & Santi, 2018). This relationship relates to the utilization and use of goods or services sold by business actors (Riza & Abduh, 2018). Such relationships in business activities often occur. Consumer protection has a broad scope, including consumer protection in obtaining goods and services. Starting from the activity stage in obtaining goods and services to the consequences of using these goods and services. (Sidabalok, 2014).

Consumer protection, according to Article 1 point 1 of Law Number 8 of 1999 concerning Consumer Protection, is all efforts that guarantee legal certainty to protect consumers. The consumer protection law also states that the government is responsible for fostering and providing protection to consumers and ensuring that consumers and business actors obtain their rights. Therefore, consumers as users of goods and services in society have rights protected by law.

Refill Drinking Water Depot (DAMIU) is a business entity that manages drinking water for public needs in bulk and not packaged. Considering the price, refilled drinking water is cheaper than bottled water. Some even sell it at a quarter of the price of bottled drinking water. Refill drinking water has become one of the answers to meeting Indonesian people's practical and inexpensive drinking water needs. This is the reason that people choose it for consumption. However, in terms of quality, some of the respondents in this study (a total of eight respondents) still doubted the quality of the refilled drinking water they consumed. 37.5% answered that they knew the quality of refill drinking water consumed. In comparison, 62.5% still answered doubtfully about the quality of refilled drinking water (Interview, August 11 2021).

Figure 1.
understanding of the
water consumed



Respondents'
quality of refill drinking

The researchers found several irregularities in the field when it is associated with the problem of legal protection for consumers who are harmed by consuming refilled drinking water. To the researcher, the existence of refilled drinking water depots contradicted the Regulation of the Minister of Health Number 43 of 2014 concerning Hygiene and Sanitation of Water Depots. Drinking and Law Number 8 of 1999 concerning Consumer Protection, so that it can harm the community. The forms of negligence or violations committed by refill drinking water depots include:

2. Refill Drinking Water Depots Must Have a Business License, Report of Drinking Water Test Results and Sanitation Hygiene Eligibility Certificate

Based on the results of research in the field, of the six Refill Drinking Water Depots that were used as research samples, there is still one Refill Drinking Water Depot in Central Ternate District, which for one year has been running its business

activities without having a business license issued by the Investment and Integrated Services Agency. One-Stop (DPMPTSP) of Ternate City does not yet have a report on the results of drinking water tests and a certificate of eligibility for sanitation and hygiene from the Ternate City Health Office.

1. Sanitary Hygiene

Sanitary hygiene is an effort to control risk factors for contamination from places, equipment and handlers of drinking water so that it is safe for consumption. Sanitation hygiene requirements in drinking water management cover at least aspects of place, equipment and handlers.

a. Place aspects at least include:

- 1) Refill drinking water depots are required to have a flat, water-resistant, non-slippery, smooth, non-absorbent dust, not cracked, and easy-to-clean, sloped enough slope to prevent puddles and easy cleaning.
- 2) Lighting should be bright enough when working, not spread evenly and not dazzling.
- 3) Have access to basic sanitation facilities, such as closed and smooth sewerage, latrines, hand washing and closed trash cans.

Based on research in the field, from six samples of refill drinking water depots taken (two depots in South Ternate sub-district, two depots in Central Ternate sub-district and two depots in North Ternate sub-district), there is one depot in Central Ternate district where the place of business activities is flooded. This is certainly not by the sanitary hygiene requirements. In addition, of the six depots, one depot in South Ternate District and one depot in North Ternate District, whose business activities are dazzling. Gallons of water receive direct sunlight, so it is not by the sanitation hygiene mandated by the Regulation of the Minister of Health.

Regarding the provision of hand washing facilities equipped with soap and running water, of the six refill drinking water depots visited, only one refill drinking water depot has a hand washing place equipped with soap and running water, which is located in North Ternate District. So, other drinking water depots do not meet the third point of the above provisions.

According to Mr Anhar, an employee at one of the depots in the District of South Ternate, Mangga Dua Mas, said that the hand washing facilities were equipped with soap and running water, which they used to provide. However, because customers rarely use the hand washing facilities over time, the facility is no longer provided (Interview, August 12 2021). This is different from what was stated by Mr Imran, the owner of the Aqillah Oxy depot in Central Ternate District, that they have a hand washing station and cleaning soap. However, they have not been placed and used correctly (Interview, August 12 2021).

Furthermore, Mr Alfandi, an employee at the Cendana Depot, South Ternate District, admitted that he had not provided a hand washing facility equipped with soap and running water because the depot was only established two months ago, so he did not have sufficient income to provide these facilities (Interview, August 12 2021).

Equipment aspects at least include: containers/gallons filled with drinking water must be given directly to consumers and not stored in drinking water depots for more than 1x24 hours.

Based on the results of research in the field, there are drinking water depots that do not meet this provision. Therefore, the drinking water depot entrusted the gallons filled with drinking water to nine staple food stalls (groceries stalls). The gallons of drinking water were stored for days in the stalls, meaning 1x24 hours had passed. This can cause the gallon of water to get mossy because it is stored for too long. It affects the low quality of drinking water consumed, especially if the gallon of water stored in the shop gets direct sunlight.

1) Aspects of handlers at least include:

- a. Free and healthy from infectious diseases and not a carrier of pathogenic germs (carrier).
- b. Always wash your hands with running water and soap every time you serve customers.

Determine that the employees at the depot do not have any infectious diseases. What if he has a contagious skin disease or tuberculosis while they are wearing clothes. It is not easy to do. Apart from communicable diseases, no employee has ever had their health checked regularly by a doctor on the instructions of the depot owner. Furthermore, regarding the obligation to wash hands with running water and use soap every time serving consumers, based on research in the field, both in the Districts of South Ternate, Central Ternate and North Ternate, there are no refilled drinking water depots that meet these provisions.

a. Laboratories

He could not afford to pay the salaries of the laboratory staff. There are no drinking water depots that have special laboratory personnel. Based on the research in the field, all of them said that it was not done first because it was not required by the agency authorized to give the permission and secondly if it should have been done.

b. Raw Water Source

Regarding the source of raw water, there appears to be a difference between one depot and another. Of the six samples of refill water depots the researchers visited, two depots used bore wells as their raw water, and four depots used water from the Drinking Water Company (PAM) as their raw water source.

According to the researcher, if they use groundwater, the depth of the well should be considered because the more profound the groundwater, the more likely the raw water produced does not contain bacteriology and is less likely to be polluted. Based on the above, about the Consumer Protection Law, Number 8 of 1999, the loss that consumers can experience in consuming refilled water is losses due to the use, use, and utilization of refilled drinking water. The loss suffered by the refilled drinking water consumer is because the product causes pollution or damage and loss to the consumer's soul, body, and property. Damage, contamination and loss to consumers due to drinking refilled drinking water can occur because business actors violate the prohibitions stated in articles 8 to 17 of the Consumer Protection Law. The most frequently encountered example of refilled drinking water products is that the product is not suitable or does not meet health standards.

3. Forms of Supervision of Related Agencies on Refill Drinking Water Produced by Refill Drinking Water Entrepreneurs

To meet the requirements for drinking water quality, it is necessary to carry out monitoring activities for drinking water quality which are carried out continuously and continuously so that the drinking water quality requirements guarantee the water used by residents from the existing drinking water supply. According to the provisions of Article 20 paragraph (2) of the Regulation of the Minister of Health Number 43 of 2014 concerning Hygiene and Sanitation of Drinking Water Depots, guidance and supervision are directed to:

- a. Prevent and reduce health risks from drinking water produced by drinking water depots;
- b. Maintain and maintain the quality of Drinking Water produced by Drinking Water Depots by the provisions of laws and regulations.

The drinking water quality monitoring includes:

- a. Drinking water produced by a government and private company, which is distributed to the community by a piped system.
- b. Drinking water produced by a government and private company is distributed to the public in packaging and refills.

Before discussing further how the supervision carried out by the relevant agencies on refill drinking water depots, the researchers will describe the data on the depots in Ternate City. The number of refill drinking water depots in each sub-district in Ternate City based on data from the Industry and Trade Service is 177 depots.

Meanwhile, according to data from the Ternate City Health Office, 137 refill drinking water depots are operating. Based on data from the Department of Industry and Trade and data from the Health Office, there appears to be a difference in the number of refill drinking water depots. It can be concluded that there is a lack of coordination between these two agencies.

According to Ms Talha Husen, S.T., M.T., as Head of the Business and Industrial Facilities Section of the Industry and Trade Office of Ternate City, the authority to issue business permits for refill drinking water depots is now under the authority of the Investment Service and One-Stop Integrated Services (DPMPTSP). The parameter of whether or not a drinking water depot is granted a business license is to see and assess whether the drinking water depot has a business as proposed or not (Interview, August 24 2021). Disperindag only has the authority to provide recommendations to DPMPTSP on whether the drinking water depot is appropriate or not to be granted a permit. Suppose a refill drinking water depot is found that does not have a permit. In that case, the Ternate City Industry and Trade Department will provide guidance and appeal to the relevant depot to regulate its business license. Furthermore, Ms Talha stated that since 2017 the Disperindag of Ternate City had never received an incoming letter from the Ternate City Health Office regarding the problem of Refill Drinking Water Depots (Interview, August 24 2021).

So far, when the Disperindag of the City of Ternate found a depot that did not have a business license, the Disperindag only appealed to the depot to immediately apply for a business license. However, it has never reached the stage of closing the drinking water depot. Because according to Mrs Talha, to close the refill drinking water depot business, good cooperation is needed between various institutions, such as the Ternate City Health Service and also from the National Police Investigator (Interview, August 24 2021).

Furthermore, based on research at the Ternate City Health Office, researchers obtained data regarding the 2020 Water Quality Monitoring Program conducted by the Ternate City Health Office. Where in 2020, there are 137 drinking water depots operating. Sixty-four did not meet the requirements according to the environmental health inspection assessment. Moreover, of the 73 that meet the requirements, 24 have been tested for quality. From the quality test results of the 24 units of the Drinking Water Depot, 22 met the health requirements and the other two were found to have coliform bacteria (not eligible). 49 of the 73 Drinking Water Depots that should have been followed up with quality testing or laboratory confirmation were ultimately not implemented for various reasons by the owner or manager (Ternate City Health Service Data, 2020).

The Ternate City Health Service has supervised the following refill drinking water depots. They have been declared eligible, namely King Water, De'Amor Oxy, Anugrah Jaya, One, Fungka Mas, Kieraha RO, Kiki, Al-Insan, Sinter Oxy Water, Boy R.O., Air Mas, Oxymas, Elim, Aqua Mint, Milzam, Matador, Nafisa Oxy, Al Kautsar, Dodara Oxy, Cinnamon, Primary Mineral, Amalkhairaat, Hermon, Aqillah Oxy, Arzil Fresh, Rya Oxy, Menoks Oxy, DZ, Tiga Putri, Putri Sabia, Aqua Mas, Loko Dia Oxy, MJC Oxy, Putra Oxy, Wai Ola Oxy, Dwi Putri, Felia Oxy, Mira Oxy, Three-A, Two Sons, Tirta Fimy Oxy, Mahkota Nukila, Ake Okay, My Water Oxy, Rahmat Oxy, Ake Afu, Moti Kota, Messianic Oxy (Data from Ternate City Health Office, 2020).

When conducting sampling of refilled drinking water and its depots, and finding the quality of refilled drinking water that does not meet the requirements as the quality of drinking water regulated in the Regulation of the Minister of Health Number 492 of 2010 concerning Drinking Water Quality Requirements and finding water depots that do not meet the requirements sanitation hygiene as in the Regulation of the Minister of Health Number 43 of 2014 concerning Sanitary Hygiene of Drinking Water Depots, the Ternate City Health Office in this case immediately gave a warning to the depot and guided business actors. Based on an interview with Mrs Nuraini as the staff of the Environmental Health Section, she said that, within three months, the Ternate City Health Office had to conduct sampling (sampling) of refill drinking water depots. However, Ms Nuraini admitted that due to the limited workforce, in the end, supervision was only carried out every six months. However, there has never been a closure of drinking water depots that do not meet health requirements (Interview, August 26 2021).

The preceding shows that the supervision of the relevant agencies on refill drinking water produced by refill drinking water entrepreneurs has not been carried out optimally. This is evidenced by the data described in the previous discussion, that there are refill drinking water depots whose places of business are flooded, the containers/gallons get direct sunlight for a long time, the unavailability of hand washing facilities with running water and soap. Cleaners, even depot managers who do not wash their hands before serving consumers, up to the sales system for refilled drinking water deposited in basic food stalls and stored for more than 1x24 hours.

Seeing these phenomena, it seems that the relevant agencies, the Ternate City Industry Service and the Ternate City Health Office, have not provided massive guidance to business actors to understand the sanitation hygiene requirements. This, of course, has an impact on the losses experienced by consumers because refilled

drinking water purchased at depots that do not meet health and sanitary hygiene requirements can be contaminated by bacteria. Therefore, this requires stricter supervision, guidance and action by the relevant agencies so that refilled drinking water is safe for consumption by the public as consumers.

D. Conclusion

So far, the efforts of refill drinking water consumers in Ternate City to obtain their rights as consumers have not been maximized. This is because not many people are aware of the Consumer Protection Act. Likewise, with refill drinking, water business actors in Ternate City, not all refill drinking water depots have permits or have registered their businesses with the relevant agencies. Whereas all matters relating to drinking water depots, including the conditions for their establishment, are explicitly regulated in the Decree of the Minister of Industry and Trade Number 651/MPP/Kep/10/2004 concerning Technical Requirements for Drinking Water Depots and their Trade. The supervision of the relevant agencies on refilling drinking water produced by refilled water entrepreneurs is also not running as it should. This is due to the lack of human resources.

References

- Herlina, Elis., & Santi, Sri. 2018. Perlindungan Hukum Terhadap Konsumen Pada Perjanjian Pembiayaan Dengan Fidusia Tidak Terdaftar. *Jurnal Hukum Ius Quia Iustum*, Vol. 25, No.2.
- Janus Sibadolok. 2010. *Hukum Perlindungan Konsumen di Indonesia*. Bandung: Citra Aditya Bakti.
- Peraturan Menteri Kesehatan Nomor 492 Tahun 2010 tentang Persyaratan Kualitas Air Minum
- Peraturan Menteri Kesehatan Nomor 43 Tahun 2014 tentang Higiene Sanitasi Depot Air Minum
- Philipus M. Hardjon. 1987. *Perlindungan Hukum Bagi Rakyat Indonesia*. Surabaya: Bina Ilmu.
- Riza, Faisal., & Abduh, Rachmad. 2018. Penyelesaian Sengketa Secara Arbitrase Untuk Melindungi Konsumen Melalui Badan Penyelesaian Sengketa Konsumen. *Jurnal EduTech*, Vol 4, No.1.
- Setiantoro, Arfian., Putri, Destika Fayreizha., Novitarani, Anisah., & Njatrijani, Rinitami. 2018. Urgensi Perlindungan Hukum Konsumen Dan Penyelesaian Sengketa E- Commerce Di Era Masyarakat Ekonomi ASEAN. *Jurnal Rechtsvinding*, Vol 7, No.1.
- Shidarta. 2006. *Hukum Perlindungan Konsumen Indonesia*. Jakarta: Grasindo.
- Sidabalok, J. 2014. *Hukum Perlindungan Konsumen di Indonesia*. Bandung: Citra Aditya Bakti.
- Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen,