

Consumer Protection Towards Local Food Production In Southeast Sulawesi, Indonesia

Suriani BT. Tolo, Ahsan Yunus, Ahmadi Miru, Irwansyah

Abstract: Consumers have rights which should not just be ignored by businesses such as the right to be a safety, the right be informed, the right to be heard, as well as the right to a good environment and healthy. Kendari Regency as a local government has been manifested by issuing regulations and policies that support the development of local food production such as the Mayor of Kendari regulation No. 15 of 2010 and Mayor Kendari Decree No. 427 of 2012 regarding the Establishment of Community Care Local Food. It appears that the local government is trying to make this local food as an alternative food. The type of research used in this paper is a socio-legal research, reviewing the local food production from the perspective of consumer protection. The outcomes of the research indicate that responsibility of food business operators in the implementation of local production is essentially an effort to assist the government in ensuring the realization of food safety system. Therefore, there is a need for awareness of the laws and regulations for all parties involved towards local food production, especially in Kendari Regency, Southeast Sulawesi on the food production process.

Index Terms: Consumer Protection, Food Safety System, Local Food Production

1 INTRODUCTION

Food is a basic need for human life, so everyone needs to be guaranteed in acquiring quality and safe food. Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. Food production which not manufactured properly can be a source of microorganisms and chemical contaminants, which can be dangerous and cause disease to humans. Food poisoning cases in the community should not be the case if the food product can be processed in accordance with the procedure correct processing. To achieve all that, according to Achmad Suryana (2003), organizing a food system should be able to provide protection for both the producers and consumers. The concept of food security can be applied to measure government's performance in assuring the people's access to food; however, it is not always positively correlated with national sovereignty. As cited in Purwiyatno Hariyadi's report, There are four aspects of food security; (i) food availability, (ii) stability of supplies, (iii) access to supplies, and (iv) food utilization, which eventually leads to the embodiment of healthy and active individual (Hariyadi, 2011). According to Budi Untung (2012), in producing adequate food to be released or traded in a whole community, businesses should pay attention to the interests of the public as consumers. Consumers have rights which should not just be ignored by businesses such as the right to be a safety, the

right be informed, the right to be heard, as well as the right to a good environment and healthy. In this regards, the Indonesian authority have been asserted the right to the consumer in the Law No. 18 of 2012 concerning Food. This act is a legal basis in the implementation of food that includes; food planning, availability, affordability, consumption and food nutrition, food safety, labeling and advertising of food, supervision, information systems Food, food research and development, institutional and public participation, including investigation. In addition, this act has been adapted to the development of the organization of food in Indonesia, such as democratization, decentralization, and globalization principles, as well as the actual conditions of Indonesian society. Unfortunately, reality is often in contradiction with the rules. As it turns out in practice, however, it has certain weaknesses, particularly in view of the accountability and legitimacy aspects of its establishment. Based on information from the Indonesian Food and Drug Monitoring Agency (Commonly known in Indonesia as Badan Pengawasan Obat dan Makanan/BPOM) has been found about 35% of processed foods that are not marketable. This information is obtained from the test results BPOM to 3,037 processed food distribution facilities such as shops, supermarkets, and traditional markets. In his observations, the BPOM also found 1844 expired products with economic value of IDR 1 billion. This expired products circulating in areas far from the centers of production and distribution such as Aceh, Jayapura, Kupang, Palangkaraya, and Kendari with economic value reached IDR 156 million (Tempo, 2013). As a follow up on the findings of unfit food distribution mentioned above, BPOM has conducted coaching and law enforcement. Law enforcement is in the form of administrative sanction such as the extermination order and including in the form of reporting to the police officer as mandated in Law No. 18 of 2012 concerning Food. BPOM in 2011, has processed 140 cases with 52 cases of pro-justicia, and 88 cases of non pro-justicia. In 2012, the number of cases handled rose to 145 with the completion of pro-justicia 49 cases and non pro-justicia as many as 96 cases. In the last three years there have been about five cases punishable by both imprisonment and fines (Tempo, 2013). Events such as these show that the food products circulating in the community, especially in the city of Kendari, Southeast Sulawesi potentially cause problems, so it is important to do research so that these problems can be well understood and can be solved. The question that arises from the events

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mentioned above, among others, whether the local food production in Kendari already unfit for consumption and whether the food product has been produced with the notice of consumer rights? On the other side, local government commitment has been manifested by issuing regulations and policies that support the development of local food production such as Mayor of Kendari regulation No. 15 of 2010 and Mayor Kendari Decree No. 427 of 2012 regarding the Establishment of Community Care Local Food. Moreover, it appears that the local government is trying to make this local food as an alternative food for the city of Kendari. Therefore, the government appealed to the public to eat local food or food typical of the region as an alternative to rice.

2 METHOD OF RESEARCH

The type of research used in this paper is a sociological research, reviewing the local food production in Southeast Sulawesi, Indonesia from the perspective of consumer protection. The data being used include secondary data consisting of primary law materials in the form of laws and regulations, tertiary law materials in the form of reference books, opinion of experts, and the outcomes of previous research, as well as legal facts about the responsibility of businesses towards consumers in order to produce food products that are safe and feasible to be consumed as expected (Sulistiyowati *et al.*, 2011). The analysis method applied in this paper starts with the abstraction of primary law materials, secondary law materials and tertiary law materials, leading to an understanding of the essence of the consumer protection principle, analyzing the weaknesses of legal protection towards local food production in Southeast Sulawesi, followed by systematization and synchronization, and finally, drawing conclusions based on the deductive syllogism reasoning method.

3 RESEARCH OUTCOMES AND DISCUSSION

To analyze the data regarding the rationale in the responsibility of businesses on local food products in order to protect the rights of consumers in Southeast Sulawesi province, the focus in this study examined the types of businesses that have been sufficiently developed in the food sector, especially the kind of local food. The potential of foods in Southeast Sulawesi among others *sagu*, cassava and maize. Results from these plants can be processed into local specialties known as *Sinonggi*, *Kasoami*, *Kambose*, and *Kabuto*. These four types of local specialties that reflect the tribes or ethnic groups in Southeast Sulawesi as a Province in Indonesia. *Sinonggi* is typical food of Tolaki tribal, while *Kasoami* is typical food of Buton as well as *Kabuto*, while *Kambose* is typical food of Muna tribal in the islands area. Basically, every business has the burden of responsibility for each product or merchantability. Therefore, every business in the food sector also have the burden of responsibility for each food product it produces. Thus, the responsibility of businesses is the responsibility of the person or business entity that is engaged in a process to produce a product, including the responsibility of the person or business entity that sells or distributes products so that the necessary matters relating to, among others:

3.1 Classification Responsibility of the Businesses

Responsibility of business operators can be viewed from various aspects. Therefore, the responsibility of businesses

can also be classified based on the viewpoint that the basis for understanding the responsibilities of business actors. Similarly, the responsibility of business operators who engaged in providing food, ranging from suppliers, manufacturers, and distributors. The greater the scope of business, then the responsibility is also becoming increasingly large. Viewed from the consumers perspective, the responsibility of businesses can be divided into two kinds, namely: (i) the responsibility before the occurrence of an event (*ex-ante liability*); and (ii) the responsibility after the occurrence of an event (*ex-post liability*). Responsibility before an incident is the responsibility to comply with all the laws and/or various regulations related to the implementation of the activities of food. While responsibility after an incident is liable to restore to the consumer because suffered to its original state, which is represented by the payment of compensation as a form of compensation. Under the provisions in the Article 68(3) of the Law No. 18 of 2012 concerning Food has been asserted that every food business operators are required to apply the norms, standards, procedures, and criteria of safety food which set by the government. In accordance with the provisions of Article 1365 of the Indonesian Civil Code is determined that any unlawful acts and bring harm to others, requires that the person causing the loss was due mistake to replace those losses. Based on the provisions as described above, it can be understood that from the consumer point of view, the responsibility of businesses can be classified into:

- a) Responsibility before losses on consumers is the responsibility for the implementation of norms, standards, procedures, required pursuant to applicable law so as to ensure food security and provide something decent to the public, including providing good quality services to consumers;
- b) Responsibility after losses on consumers is liable to provide compensation for damage, contamination, and/or loss of customers as a result of consuming the goods and/or services produced or traded. Compensation may be either a refund or replacement of goods similar or equivalent value, or a health care and/or donations in accordance with the provisions of the legislation in force; and
- c) From the point of view of producers, businesses liable for any product, it is also can be classified into two kinds, namely the responsibility in the production process and responsibilities after a product is produced or responsibility post-production.

Based on the typical responsibility of the businesses as stated above, food business operators in conducting food production must meet various regulations on the activities of the food production process, so that no harm or risk to human health in a whole. So also with the responsibility of food business operators to offer, especially when food is produced causing harm, both to the health problems and the death of people who eat the food.

3.2 Perpetrators of Local Food Production in Southeast Sulawesi

Local food production process involves a lot of businesses. The outcomes of the research indicate that the local food production process in Kendari City, Southeast Sulawesi generally can be described as follows: suppliers, producers, agents or distributors, and traders. The parties involved in food

production activities are shown in the following Figure 1 below:

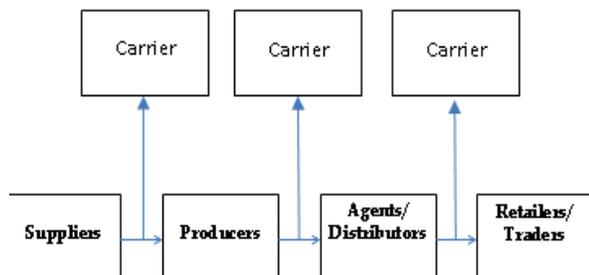


Figure 1. Parties involved in food production activities

Based on Figure 1 as described above, it is seems that the supplier serves to supply raw materials for the industry. The industry, both domestic industries (*home industry*) and medium scale industries, further processing raw materials into food products ready for consumption. Products from the processing industry and then distributed by the distributor or agent to the marketers, either through wholesalers or directly prior to the retailers or traders. In every stage of the production process, there is always the involvement of the carrier, ranging from transportation of raw materials to industry or manufacturer, to the transportation of the production to be marketed to consumers. Based on the data that has been obtained during the research carried out, it is known that the total number of operators of food production in Southeast Sulawesi is as much as 182 businesses. The overall number of businesses can be classified on the businesses that produce the type of food that is distinctively local as described on the Table 1 and Table 2 below.

Table 1.

Business communities in the region of Kendari, Southeast Sulawesi in 2014.

No.	Category of Food Production	Amount	Percentage (%)
1.	Local food (in the form of food and drink distinctively by using local commodities or raw materials)	85	46.70
2.	Non-local food (in the form of food and drink of a general nature and is not distinctively local)	97	53.30
	Totaled	182	100

Source: Health Department of Kendari, Southeast Sulawesi, 2014 (Edited).

Table 2.

Type of local food production in the region of Kendari, Southeast Sulawesi in 2014.

No	Type of Food	Number of Business	Percentage (%)
1.	Food	57	31.32
2.	Beverages	13	7.14
3.	Pastry	101	55.49
4.	Food raw materials	11	6.04

Totaled	182	100
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Source: Health Department of Kendari, Southeast Sulawesi, 2014 (Edited).

Based on the table above, it appears that there are as many as 85 the number of businesses engaged in the production of local food. This kind of local food can be a kind of fast food or processed food items from local raw materials. While the number of businesses that are engaged in non-local food that is as much as 97 businesses. In accordance with the provisions of Article 1(39) of the Law No. 18 of 2012 concerning Food, that food business operators is any person engaged in one or more subsystems agri-food, are providers of production inputs, process of production, processing, marketing, trade, and support. Under these provisions, it can be understood that the production process starts from the inputs of production, the production process to the input processing production by food business operators so as to produce a particular food product. Furthermore, the responsibility of business operators in the distribution and marketing is linked to the provision of information about the product, it is correctly and completely to all parties, especially on consumers. This labeling provision setting is done by including it in the packaging or labeling of products, as well as delivery in the form of advertising. The term of the food label is any information about the food in the form of images, text, a combination of both, or other forms that are included in food, is inserted into the package, affixed, or a part of food packaging. At the practical level in Kendari city, however it is seems that the businesses yet include complete information about the product. From a total of 25 businesses were sampled, there are three businesses that have not been included in the production of the brand and address the resulting product. As for the inclusion of the material composition and contents, only 14 businesses that implement them, while the other 11 are still not include material composition and the net weight of the product. This shows that in general the products produced are not entirely meet the requirements as stipulated in Government Regulation 69 of 1999 on Food Label and Advertisement, which stipulates that food labels at least contains information about the product name, list of ingredients used, net weight or net contents, the name and address of the party who produces as well as the date, month and year of expiration. In this case, there are many businesses that have not provided full information to consumers, especially regarding nutrition and material composition, as well as product usage time limit or expiration date of product. Based on previous descriptions, it is safe to say that in relation to the responsibility of food business operators, there are still many aspects that have not been fully implemented well, ranging from administrative permission to establish a business, responsibility in the production, as well as responsibility in providing correct information and complete the product. The aspects in question include those relating to licensing in setting up a business, there are many businesses that do not have permission to sample completely. Similarly, in conjunction with the information on the product label. Actions that do not include the true and complete information about the products traded, either on the label or in the packaging, is a form of violation of the law as it has been mandated in the Law No. 18 of 2012 concerning Food and Law No. 8 of 1999 concerning the Consumer Protection, as well as the

Indonesian Civil Code. Furthermore, it's more likely to happen because the level of government supervision is also still relatively low. Efforts supervision of the relevant agencies has not been fully carried out routinely and periodically. Besides supervision of food business operators have not done evenly and thoroughly.

<http://www.tempo.co/read/news/2013/08/01/078501588> .
Accessed May 16, 2014.

4 CONCLUSION

Responsibility of food business operators in the implementation of local production is essentially an effort to assist the government in ensuring the realization of food safety system. Therefore, there is a need for awareness of the laws and regulations for all parties involved towards local food production, especially in Kendari City, Southeast Sulawesi on the activities of the food production process, so that no harm or risk to human health in a whole. There are still many aspects that have not been fully implemented well, ranging from administrative permission to establish a business, responsibility in the production, as well as responsibility in providing correct information and complete the product. To all institutions related to the field of food production supervision, particularly to the Department of Health and the Center for Food and Drug Administration (BPOM), in order to take action more routine monitoring and periodic against a wide range of food products that do not meet the requirements as stipulated in the laws and regulations. Besides the monitoring efforts should also be carried out evenly and thoroughly to all food business operators, especially for local food production businesses and household industries (home industry).

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