

URGENCY OF LEGAL PROTECTION TO SNACKS FOR SCHOOL CHILDREN IN LUMAJANG DISTRICT

Naimah^{1*}, Soesilo²

^{1,2}Lecturer, Law Faculty, Lumajang University, Indonesia.
Email: ^{1*}salsabila_ima@yahoo.co.id, ²soesilounilu@gmail.com

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Abstract

The purpose of this study: The purpose is to produce a discussion about the pattern of legal protection and the obstacles faced by the Lumajang Regency government to guarantee children's health rights to snacks for school children.

The research method: The method used is sociological juridical research data were collected using literature study, and the Field in the form of observations, interviews. This research is located in Lumajang Regency, where the object is related institutions to support the completeness of government data in the area of efforts to provide legal protection for children's health rights from the dangers of school snacks.

Main Findings: This research is, first, the legal protection of snacks for school children have binding legal force, secondly, to protect children against the health of school children who are not healthy Lumajang district government has several obstacles, including the lack of optimal coordination between the school and the government, in this case, the Community Health Centers (Puskesmas), the existence of street vendors outside the school canteen making it difficult to control both the government and the school, lack of awareness of businesses about the importance of food safety, nutrition and quality, there are no specific and detailed guidelines relating to Healthy Snacks in Schools in Lumajang Regency.

Applications: This research is intended to increase knowledge in the field of law and policy in the field of child health and useful for the study of child consumer protection.

Novelty/Originality: This research has never been carried out before, especially those located in Lumajang Regency, basic information on strong legal protection is beneficial for the community to feel safe consuming school snacks and can be used as a legal basis for accountability if found school snacks that are not safe for consumption, also need guidelines specifically for the people of Lumajang to suit their conditions.

Keywords: Protection, Law, Snack, Children, School, Legal Protection, Lumajang District.

INTRODUCTION

Various kinds of snacks are sold both in the form of heavy food and snacks, both fresh and packaged foods, snack foods can function as nutritional intake of school children, maintain blood sugar levels so that school children remain concentrated, to maintain the physical activity of school children (Iklima, 2017).

The types of snacks for School Children in Lumajang Regency can be classified as follows:

1. Heavy food, that is food that can make you happy, such as rice, chicken noodles, meatballs, Gado-Gado, Soto, etc.
2. Snacks, which are unpleasant foods such as packaged foods, crackers, macaroni, etc.
3. Fresh food:
 - a) Fresh food is food that has not undergone processing that can be consumed directly and/or which can become the raw material for food processing (Naully & Mathilda, 2018).
 - b) Fresh food in Lumajang regency such as cut fruit, fruit ice.
4. Beverages, drinks sold at school consist of two types, namely:
 - a) Bottled drinks such as bottled, bottled drinks, etc.
 - b) Drinks served using a glass or bowl, such as fruit ice, ice juice, iced tea, etc.

The Food and Drug Supervisory Agency (BPOM) and the Lumajang regency health office found no harmful substances in school children snacks, from 60 samples of snacks examined by BPOM the results found 14 types of snacks containing dangerous substances namely Rodamin C and Boraks (Bhirawa, 2019).

Various kinds of snacks for school children sold at school are very difficult to avoid for children to consume, besides having an attraction for children, they also need it to add energy while at school, but not all snacks for school children are safe for consumption by children, some of which endanger a healthy child.

This research is important to be carried out bearing in mind the number of snacks of school children that endanger the health of children, especially in Lumajang Regency and require proper legal protection so that they can guarantee the fulfillment of their right to obtain optimal health status, even though they consume snacks at school. Because the right to health is one of the rights of children, while the rights of children must be guaranteed, protected, and fulfilled by parents, family, community, state, government, and local government. (Article 1 paragraph (12) of Law number 35 of 2014 concerning child protection, one of the efforts to fulfill the child's right to health by the government is to provide legal protection ([Tim, 2016](#)).

LITERATURE REVIEW

This study has a difference compared to some previous studies. Where in this study, has a new element that does not exist in previous studies, this research is located in Lumajang Regency, were at that location there has never been any previous research on the legal protection of snacks for school children. Also besides, previous research has not discussed the legal force hierarchy from the legal basis for the protection of school children, whether it has binding legal force or not.

Research of [Herum \(2017\)](#) entitled “*Perlindungan Hukum Terhadap Konsumen Atas Peredaran Produk Makanan Mie Instant Kadaluaras Di Kota Palu*”, the results of the study show: First, the application of the Consumer Protection Act has not been implemented properly because entrepreneurs as providers of goods and services pay less attention to their obligations and consumer rights. Second, the authority and accountability of the hammer city BPOM towards consumers and guidance to business actors is a form of legal protection to the hammer city community. Similarities with this study together examine the legal protection of food consumers, as for the difference Herum Research is more to general consumers and food objects are only limited to instant noodles, while this research focuses on child consumers and all types of snacks at school. [Lathif \(2014\)](#) with the title “*Analisis Yuridis Perlindungan Hukum terhadap Anak sebagai Konsumen dalam Hukum Positif Indonesia*”, the results of this study The legal protection of children as consumers follows all forms of child legal protection in the Child Protection Act and all the protection measures contained in the Consumer Protection Act. The similarities are equally discussing the legal protection of children as food consumers, as for the differences. The Afif normative research study is limited to reviewing general laws and regulations, whereas this research is sociological juridical and examines general laws and regulations and regional laws and regulations. Lumajang Regency. [Suriati et al., \(2018\)](#) with the title “*Perlindungan Konsumen Jajanan Bahan Berbahaya di Lingkungan Sekolah.*”, The results of the study showed that the Government of Aceh Besar District tried to protect consumers of snacks containing hazardous ingredients. Protection is given utilizing the supervision of food vendors selling in the school environment. The government is advised to consider making a special law on the protection of child consumers. Eni's research is focused on the child consumer law, the difference is that our research lies in the study of the law. [Anggiarini & Hanim \(2018\)](#) entitled “*Pelaksanaan Kebijakan Pemerintah Daerah Terkait Bahan Tambahan Pangan Pada Jajanan Anak Sekolah Menurut Permenkes No. 033 Tahun 2012 (Studi di Kabupaten Jepara)*”. The results of his research show that the policies of the Regional Government of Jepara Regency are contained in the Strategic Plan (Renstra), namely Food Development and Supervision in the School Environment. In this case, the policy made is Substantive and Procedural Policies. Government policy in Permenkes Number 33 of 2012, has regulated the determination of BTP requirements in detail and in full. The legal protection provided is only limited to the supervision and guidance of school children, school authorities, and traders in the school concerned. [Silaswaty \(2018\)](#). “*Perlindungan Anak Sekolah Sebagai Konsumen Jajanan Dalam Perspektif Perlindungan Konsumen*”, the results of the study indicate that the Government has tried to fulfill the rights of school children as consumers through various regulatory instruments. However, the regulation can certainly be implemented well with the support of local governments, schools, and the community. This research is normative and does not arrive at regulatory research in the region because of its general nature throughout Indonesia. [Rohmah & Iswantoro \(2016\)](#) entitled “*Perlindungan Hukum terhadap Konsumen Produk Makanan yang Tidak Berlabel Halal di Daerah Istimewa Yogyakarta Tahun 2015*”, the results showed that the responsibilities of business operators were still less responsible in fulfilling their obligations. Most business actors do not pay attention to cleanliness both from within the business actor and the cleanliness of the surrounding environment which results in food being tainted. There are still many business actors who do not know and do not understand their obligations as regulated in the legislation about what should be done and what cannot be done. This research is focused on the business side, while our research is focused on legal protection, although both objects are snacks for school children. [Mufti \(2018\)](#) with the title “*Peran Pemerintah terhadap Peredaran Jajanan Tidak Sehat di Lingkungan Sekolah dalam Perspektif Hukum Islam (Studi Kasus di Banda Aceh)*”, one of the results of the study shows that the government is obliged to protect every population, especially Muslim residents, from the distribution of snacks or food not healthy. Because of this obligation, one of the steps taken by the government to protect Muslim consumers is to make laws and regulations that contain protection for Muslim consumers. together examining children's snacks at school, the difference is more mufti research to the study of Islamic law and located in Banda Aceh, while our research study is positive law in Indonesia and located in Lumajang

Regency. [Nauli \(2017\)](#) with the title “*Upaya Penanggulangan Terhadap Peredaran Jajanan Anak Sekolah Yang Mengandung Bahan Berbahaya Oleh BBPOM Lampung*”. The results of the study and show that the efforts undertaken by the Lampung Center for Drug and Food Supervision are, the socialization of food safety through electronic media, and by conducting an Education Information Communication program through leaflets and exhibition brochures. BBPOM made several preventive and repressive efforts. This study is equally familiar with Snacks for School Children, but the difference is the object of BPPOM while our research is the object of the Lumajang district government and all regulations and policies related to Snacks for School Children. [Tania \(2017\)](#) “*Perlindungan Hukum Konsumen Terhadap Jajanan Anak Yang Mengandung Bahan Berbahaya Di Kabupaten Cilacap*”. The results showed the Cilacap District formed an integrated food safety system team that aims to protect and ensure that school food for school children is safe for consumption. The settlement of consumer disputes can be resolved through the court or outside the court. This study is equally an object of snacks for children containing hazardous materials, but the location of the study is different in Cilacap, while our research is located in Lumajang Regency, also the research results are more into the implementation of laws and regulations of Cilacap district government, while our research besides some realization of legal protection through the performance of the Lumajang district government also analyzes from the perspective of the strength of the legal basis that can guarantee legal protection. [Utami \(2012\)](#) “*Pertanggungjawaban pelaku usaha terhadap penggunaan bahan tambahan makanan (BTM) dalam jajanan anak (Suatu Telaah Perlindungan Terhadap Anak Sebagai Konsumen)*”, the results of the study show that the Consumer Protection Act has not been able to protect children from dangerous food additives, small and medium business actors have not fully fulfilled their responsibilities as business actors. The similarity of this study with our research are both related to children's snacks the difference is this research is more focused on supplementary food ingredients (BTM) while our research is all snacks of dangerous school children, besides this research is more on the level of implementation while our research is more on the pattern of legal protection.

METHOD

This research is legal research that uses the method of sociological/Empirical Juridical approach, namely the method of the approach of legal reality in society. The data used in this study are primary and secondary. Primary data comes from observations, interviews with the students and Hawker vendors. The research data were collected using literature study, and the Field in the form of observations, interviews. After the data collection is complete, then the data is grouped according to the purpose of the study, for further data analyzed, the data analysis in this study uses qualitative methods while secondary data in this study consists of primary, secondary and tertiary legal materials. This research is located in Lumajang Regency, where the object is related institutions to support the completeness of government data in the area of efforts to provide legal protection for children's health rights from the dangers of school snacks such as Puskesmas, Health Office, Health Service Office, Lapkesda and Legal Department Lumajang Regency.

RESULT AND DISCUSSION

The urgency of Legal Protection to Snacks for School Children in Lumajang Regency

The existence of legal protection is very important to guarantee the rights of the community, in this case, the rights of children's health. That is because the presence of law in the community includes integrating and coordinating interests that may conflict with one another so that the issue can be minimally suppressed ([Likadja, 2015](#)).

One of the rights of children is the right to health which is a basic right of children who must be protected. There is legal protection for the safety of snacks for school children in Lumajang Regency, guaranteed in Article 28B of the 1945 Constitution, as stated in Article 28B of the 1945 Constitution that every child has the right to survival, growth, and development. One of the supporting factors for the growth and development of children is the availability of healthy food, in this case, snacks in schools or madrasah.

Article 79 of Law Number 36 the Year 2009 concerning Health; also protects snacks for school children. Article 79 explains that school health is organized to improve the ability to live healthy learners in a healthy environment so that students can learn, grow, and develop in harmony and as high as possible into quality human resources. Although not detailed, this article has guaranteed legal protection for children to get school snacks that can support their growth and development ([Agustina, 2016](#)).

Law Number 8 of 1999 concerning Consumer Protection also guarantees legal protection for children against snacks for school children. Because children who consume snacks in schools or madrasah are consumers who have the same rights as consumers in general ([Indonesia, 1999](#)).

The rights of school children as consumers, the same as the rights of consumers in general, namely:

- a. The right to comfort, security and safety in consuming goods and/or services;

- b. The right to choose goods and/or services and to obtain said goods and/or services by the exchange rate and conditions and guarantees promised;
- c. The right to true, clear and honest information about consumers and guarantees of goods and/or services;
- d. The right to be heard opinion and complaints on goods and/or services used;
- e. The right to obtain advocacy, protection, and efforts to resolve consumer protection disputes appropriately;
- f. The right to consumer guidance and education;
- g. The right to be treated or served properly and honestly and not discriminatory;
- h. The right to receive compensation, compensation and/or compensation, if the goods and/or services received does not comply with the agreement or are not as intended; (Article 4 of Law No. 8 of 1999 concerning Consumer Protection).

Whereas the obligations of food vendors in schools as business actors as in Article 7 of Law number 8 of 1999 concerning Consumer Protection are:

- a. In good faith in carrying out its business activities;
- b. Provide true, clear and honest information about the conditions and guarantees of goods and/or services and explain the use, repair, and maintenance;
- c. Treat or serve consumers properly and honestly and not discriminatory;
- d. Guarantee the quality of goods and/or services produced and/or traded based on the provisions of the applicable quality standards of goods and/or services;
- e. Allow consumers to test, and/or try certain goods and/or services and provide guarantees and/or guarantees for goods manufactured and/or traded;
- f. Provide compensation, compensation and/or compensation for losses resulting from the use, use and utilization of traded goods and/or services;
- g. Provide compensation, compensation and/or replacement of the goods and/or services received or utilized are not by the agreement.

Guarantees of legal protection are also contained in Law Number 18 of 2012 concerning Food, the Law on food guarantees safety, as contained in article 2 point D "Food Management is carried out based on the principle of security" and Article 64 paragraph (1) that every person who manufactures certain processed food to be traded is obliged to apply Food processing procedures that can hinder the process of reducing or losing the Nutrient Content of the Food raw materials used ([Rahmadhani & Sumarmi, 2017](#)).

There are sanctions for business actors who violate the provisions of Article 64 of Law Number 18 of 2012 concerning Food, as a guarantee for legal protection, as stated in Article 65 paragraph (1) that Every Person who violates the provisions referred to in Article 64 paragraph (1) will be subjected to administrative sanctions. Paragraph (2) Administrative sanctions as referred to in paragraph (1) include:

- a. forfeit;
- b. Temporary suspension of activities, production and/or distribution;
- c. Food withdrawal from circulation by producers;
- d. Compensation; and/or;
- e. Revocation of permission.

Legal Protection contained in the law on food safety above there are two forms of legal protection, namely preventive as contained in article 2D and article 64 which are given rules about food safety and food processing procedures, which is intended to prevent food that is not safe and not nutritious and not quality, as for the repressive nature as contained in article 65 where this article contains sanctions for those who violate to implement procedures for food processing that can inhibit the process of reducing or losing the nutritional content of the raw materials of food used. As the opinion of legal protection according to Philipus M. Hadjn quoted in his book Salim and Erlies Septiana Nurbani, theoretically the form of legal protection is divided into two forms, namely:

1. Preventive protection, preventive legal protection is preventive legal protection.

2. Repressive protection, repressive legal protection serves to resolve if a dispute occurs ([Hadjon, 1996](#)).

School children who are consumers of snacks at school also receive a guarantee of legal protection in article 21 of Law Number 35 of 2014 concerning Child Protection, amendment of Law number 23 of 2002 concerning Child Protection: The State, Government, and Regional Governments are obliged and responsible to respect the fulfillment Children's rights regardless of ethnicity, religion, race, class, gender, ethnicity, culture and language, legal status, birth order, physical and/or mental condition. In this case the rights of children as consumers of school snacks.

Lumajang Regent Regulation Number 62 the Year 2018 Concerning Development and Development of School or Madrasah Businesses. This regent's regulation provides legal protection for school children/madrasah as stipulated in article 6 in the implementation of health services including the Guidance and supervision of healthy canteens (point m), this article provides legal protection for school children/madrasah against snacks sold in school cafes, but unfortunately, in addition to the canteen, there are many food vendors outside the school fence which are also often consumed by school children/madrasah ([Naimah & Susilo, 2019](#)).

1) Efforts to realize the guidance and supervision of healthy canteen services are carried out through the Healthy School Canteen Competition program, organized by the Lumajang District Health Office to intervene in healthy food through the healthy canteen competition. Cell A in the race also conducted supervision and oversight of a healthy canteen. To supervise the health department through the Puskesmas also conduct random food sample laboratory tests, then follow up with coaching.

Point n Lumajang Regent Regulation Number 62 the Year 2018 Concerning Development and Development of School or Madrasah Businesses explains the implementation of health services, one of which is providing nutritional information. The Lumajang Regency Government through the Health Office, in this case, provides information dissemination and nutrition counseling to traders, students and teachers of the School Health Efforts (UKS).

Laws and regulations of regents that guarantee legal protection for snacks of school children/madrasah above are included in the hierarchy type of legislation so that they have binding legal force based on article 7 of Law number 10 of 2004 concerning Legislation. Therefore, the legal basis for guaranteeing legal protection for snacks for school children/madrasah can be used as a legal grip for school children and the community.

Joint Regulation between the Minister of Education and Culture of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, the Minister of Religion of the Republic of Indonesia, and the Minister of Home Affairs of the Republic of Indonesia Number 6/XPB/2014, Number 73 of 2014, Number 41 of 2014, Number 81 of 2014 Concerning the Development and Development of School Health Enterprises/Madrasah.

Obstacles faced by the Lumajang district government in providing legal protection to children's health rights in schools

An effort does not always run as desired, often encountered obstacles or obstacles, as well as faced by the Lumajang Regency government in providing legal protection to children's health rights at school, there are several obstacles faced, namely:

1. Lack of optimal coordination between the school and the government.

PHC and health authorities some information dissemination, counseling and coaching school, but more often waiting for requests guidance from the school, while schools only ask for coaching when there will be healthy canteen contests or contests related to health, even though the need for control, supervision, and coaching should not only be done when there will be a competition because it involves children's health rights.

Children's health is a basic right that must be fulfilled, but it contrasts with the fact that the discovery of school children snacks that are not suitable for consumption above. Though food affects the growth and development of children, consuming dangerous foods is feared to be bad for health both shortly and will affect until they are adults.

Children's rights are part of human rights that must be guaranteed, protected, and fulfilled by parents, families, communities, countries, governments, and regional governments. (Article 1 paragraph (12) of Law No. 35 of 2014 concerning child protection.

The right to health is one of the rights of children, while the rights of children must be guaranteed, protected, and fulfilled by parents, family, community, state, government, and local government. (Article 1 paragraph (12) of Law No. 35 of 2014 concerning child protection, one of the efforts to fulfill the child's right to health by the government is to provide legal protection.

2. The existence of street vendors outside the school canteen complicates the control of both the government and the school.

Street vendors who sell outside the school fence are difficult to control because they are not permanent. After all, they are traders/business people who can switch between them. The food menu that is sold also cannot be determined by the school or the health department, unlike the school canteen who is subject to the rules set by the school making it easier for Puskesmas health offices to carry out control and guidance.

3. Lack of awareness of business actors on the importance of safety, nutrition and food quality, so that sometimes they return to sell food that does not meet the criteria that have been determined even though it has been given guidance by the health department through the health center.

Regulatory control is important if it relates to products that are closely related to human health and safety, for example, food products (Naimah & Soesilo, 2019). In this case food products in schools, the role of government control is very important because the food will affect the growth and development of children, and will have an impact on the health conditions of the next generation.

4. There is no implementation guideline for the Regents of Lumajang Regent No. 62 of 2018 concerning the Development and Development of School/Madrasah Businesses, so that the implementation of health services in schools/madrasah still follows general guidelines from the Ministry of Health, even though each region has different conditions both in terms of human resources, natural resources, and geographical conditions as well as facilities and infrastructure.

CONCLUSIONS

Based on the above discussion it can be concluded:

1. The laws and regulations of the district head which provide legal protection for snacks for schoolchildren or madrasah in Lumajang Regency are included in the hierarchy type of legislation so that they have binding legal force based on article 7 of Law number 10 of 2004 concerning Legislation. Because it can be used as a guarantee of legal protection for school children and the community.
2. The obstacles faced by the Lumajang district government in providing legal protection to children's health rights in schools are:
 - a) Lack of optimal coordination between the school and the government.
 - b) The existence of street vendors outside the school canteen makes it difficult to control both the government and the school.
 - c) Lack of awareness of business actors regarding the importance of food safety, nutrition and quality.
 - d) There is no implementation guideline for the Regents of Lumajang Regent Number 62 of 2018 concerning the Development and Development of School or Madrasah Businesses.

RECOMMENDATIONS

Based on the conclusions and from the findings in the study, it is recommended:

1. The urgency of legal protection for Snacking School children in Lumajang Regency can be fulfilled with the existence of specific and detailed guidelines for the implementation of health service tasks related to school canteens and school snacks outside the school canteen that have been made by the Lumajang Regency Government.
2. The school should agree with businesses that sell food at school must follow the rules of providing healthy food, not just waiting for supervision from the health department.
3. Communication, coordination, and education need to be improved to create healthy school snacks.

LIMITATION AND STUDY FORWARD

This study only examines the protection of legal provisions for children's snacks at school and its constraints, not including the level of application of supervision and control from the government regarding children's snacks at school, therefore there is a need for further research on government supervision and control of children's snacks at school, so guarantee of legal protection can run properly.

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