

THE RIGHT TO REPAIR: A PERSPECTIVE FROM CONSUMER PROTECTION LAW IN INDONESIA

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Abstract

Obstacles to independent repair make the right-to-repair movement grows around the world. The method in this research is normative legal research, which is carried out by library research on the right of repair concept analyzed based on consumer protection law in Indonesia, in addition to conducting a comparative study of the development of the the-right-repair movement in the United States and the European Union to understand the right to repair concept comprehensively. The result shows that several right-to-repair legislative products have been introduced in the United States and the European Union. Consumer protection law in Indonesia based on Law 08/1999 does not expressly stipulate the right to repair as consumers' rights in Indonesia. Consumer protection law in Indonesia is arguably not in consumers' favor since it still allows manufacturers to impose a measure preventing consumers from completing repairs independently.

Keywords: consumer protection, repair, right

INTRODUCTION

The right of ownership provides an owner of the goods free enjoyment of the property¹. In the consumer protection law, consumers have the right to obtain comfort, security, and safety in using or consuming goods². It means that consumers should be free to use their products as they please. Consumers also need assurance that their products are functional by a warranty for repair. However, warranty for repair turn out to be not consumer friendly, both caused by restrictions contained in the warranty and expensive repair costs. Manufacturers effectively impose variety of measures to prevent the ability a non-expert (or even expert) to repair their own electronic equipment such as by product design, sale tactics, repair only on authorized service centre, and exploiting intellectual property protection³.

The manufacturer also has developed strategies known as material obsolescence and planned obsolescence, which shortens the product life. The material obsolescence functions to encourage the consumer to replace their old or broken devices instead of fixing it by means of making the product more challenging to repair (imposing higher cost or requiring special tools), not providing adequate information for repair, making old model parts incompatible with a new model or otherwise, and using

¹ See. Article 570 of Indonesian Civil Code

² See. Article 8 point a, Law 08/1999 on Consumer Protection

³ Grinvald, Leah Chan & Tur-Sinai, Ofer. (2021). *The Right to Repair: Perspectives from the United States*. Australian Intellectual Property Journal. Rochester, p. 98

marketing technique to lure consumers for buying newer device. Planned obsolescence, which encompasses material obsolescence, is an industrial policy arguably a necessity for technological advancement by pushing forward innovation through early obsolescence⁴. Those strategies undeniably prevent consumers from using their electronic devices longer.

Pushing rapid innovation by employing early obsolescence measures does not only harm to consumers, but also to environment. Replacing old or broken devices with a new one will lead to two detrimental ecological impacts. First, it substantially increases the demand for mining materials needed for newer devices production. Second, early obsolete technology generates massive electronic waste. It eventually make the quantity and speed of throwing out products has increased rapidly in recent years⁵. The volume of electronic devices as of 2022 reaching 8,4 billion units⁶ in which 57.4 million metric tonnes of electronic waste was generated in 2021⁷. Some believes that electronic waste problem can be reduced by allowing consumers repairing their electronic devices independently⁸.

Obstacles on repair make the right-to-repair movement grows around the world. The right-to-repair movement is a broad international campaign to confront repair limitations and secure consumers' right to an independent repair choice. In the United States, the right-to-repair movement was initiated by a coalition known as Repair Coalition which has members from different background such as association/groups or activist for consumers rights, environmentalist, to repair industry organisations⁹. In the European Union, there is the Right to Repair coalition established in 2019 which represent repair communities, environmental activists, social economy actors, self-repair advocates and any citizen who would like to obtain their right to repair¹⁰.

The four fundamental consumer rights, as presented by John F. Kennedy in a speech to Congress in 1962, includes the right to safety, the right to be informed, the right to choose, and the right to be heard¹¹. The General Assembly of the United Nations, in resolution 39/248 of 16 April 1985, then expanded it by adding four new consumers rights, which cover the right to the satisfaction of basic needs, the right to redress, the right to consumer education, and the right to a healthy environment¹². In the present time, those consumers rights have been translated into consumer protection legislation. While the right to repair have yet to be clearly defined as one of the consumer rights in consumer protection legislation.

Grinvald and Tur-Sinai have studied that the right to repair has been a national topic in United States which is fuelled by a consumers rights ideology . The social movement mainly focus its efforts to codify a right to repair into state-level consumer protection legislation, although facing opposition from manufacturers. The successful right to repair movement on automobile in 2011 to 2012 has boosted confidence for the current repair campaign which has focus on consumer electronic products¹³. In Europe, Taina Pihlajarinne studied that the circular economy have become the main driving force to development towards full recognition of the right to repair in Europe. She says that this ambitious goal will face heavy lobbying to reach a balance between intellectual property protection and the circular economy¹⁴.

⁴ Hatta, M. (2020). *The Right to Repair, the Right to Tinker, and the Right to Innovate*. Annals of Business Administrative Science. Tokyo, p. 6

⁵ Ahmed, S. F. (2016). *The Global Cost of Electronic Waste*. *The Atlantic*. Accessed on 15 September 2022, from <https://www.theatlantic.com/technology/archive/2016/09/the-global-cost-of-electronic-waste/502019/>

⁶ Federica Laricchia. (2022). *Topic: Consumer electronics*. Statista. Accessed on 14 September 2022, from <https://www.statista.com/topics/4408/consumer-electronics/>

⁷ The Roundup. (2021). *17 Shocking E-Waste Statistics In 2022*. Accessed on 14 September 2022, from <https://theroundup.org/global-e-waste-statistics/>

⁸ World Economic Forum. (2022). *Biden backs "right to repair": What countries are doing to tackle e-waste*. Retrieved from <https://www.weforum.org/agenda/2022/01/repair-recycle-waste-circular-economy/> (Accessed on 14 September 2022)

⁹ The Repair Association. (2022). *Learn About the Right to Repair*. Retrieved from <https://www.repair.org/stand-up> (Accessed on 15 September 2022)

¹⁰ Right to Repair Europe. (2022). *Who we are. Right to Repair Europe*. Retrieved from <https://repair.eu/about/> (Accessed on 15 September 2022)

¹¹ The American Presidency Project – US Santa Barbara. (1962). *Special Message to the Congress on Protecting the Consumer Interest*. Retrieved from <https://www.presidency.ucsb.edu/documents/special-message-the-congress-protecting-the-consumer-interest> (Accessed on 15 September 2022)

¹² The General Assembly of the United Nations. (1984). *Resolution 39/248 of 16 April 1985*. Retrieved from <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0462/25/IMG/NR046225.pdf?OpenElement> (Accessed on 15 September 2022)

¹³ Grinvald, Leah Chan & Tur-Sinai, Ofer. (2021), *Op. Cit.*

¹⁴ Pihlajarinne, T. (2020). *European steps to the right to repair: Towards a comprehensive approach to a sustainable lifespan of products and materials?*. University of Oslo Faculty of Law Research Paper No. 2020-3. Oslo, Norway.

Alfredo Putrawidjoyo argues that the right to repair is more than a consumer's independent choice to repair and save money. It also demands manufacturers be responsible in designing their products. He also says that the right to repair can reinforce the anti-consumerism and the environmental movement¹⁵. Muhammad Raidendy Prihasto has discussed the right to repair from the perspective of consumer protection law, competition law, and copyright law in Indonesia. He concludes that the right to repair is potentially applicable in Indonesia under Article 7 and Article 25 of Law 08/1999, which requires business actors to provide correct, transparent, honest information concerning the condition and warranty of the goods and provide spare parts and/or after-sales facilities¹⁶.

After studying the previous studies on the right-to-repair, further discussion becomes necessary. The previous research has explained the right-to-repair campaign as a social movement in the United States and Europe. It makes studying the current development of the right-to-repair campaign in the United States and Europe helpful, as several pieces of legislation have been passed in recent years. The lesson from it can help us understand the right to repair comprehensively.

The previous study on the right to repair from the Indonesian Consumer Protection Law is not entirely comprehensive. First, the obligation of business actors to provide warranty or after-sales facilities as stipulated in Law 08/1999 can be exploited to restrict the right to repair in Indonesia, as happens in the United States in Europe. Second, the right to repair needs to be discussed not only from the aspect of entrepreneurs' obligation but also from the consumer's rights as stipulated in Law 08/1999. Therefore, this article aims to revisit the right-to-repair concept by consumer protection law in Indonesia. To complement the discussion, justifications for the right-to-repair and the development of the right-to-repair legislation in the United States and European Union need to be explained in advance.

METHOD

The research is normative legal research. Irwansyah states that normative legal research is a method of legal research inclined to picture law as a prescriptive discipline, with a viewpoint towards law solely from the legal norm that is prescriptive in nature. The topic discussed in normative legal research may include: (1) research on legal principles; (2) research on legal systems; ((3) research on vertical and horizontal synchronization levels; and (4) legal comparison¹⁷. The characteristic of normative legal research includes using formal legal sources including primary sources (legislation and official documents that contain legal norms), secondary sources (publications, law books, and journals/articles), and tertiary sources (legal dictionary and Indonesian dictionary). The approaches to be employed are the statute approach and the comparative approach. The statute approach means conducting a review of legislation related to legal issues to be discussed, in this case, is Law 08/1999. While a comparative approach is to compare laws and events that occur in one or some countries, this article is about legislation and issues related to the right to repair in the United States and the European Union. Techniques for data collection are by library research¹⁸.

DISCUSSION

Justifications for a Right to Repair

Manufacturers have numerous explanations for repair restrictions, in which the forefront argument is based on the protection to intellectual property rights. Manufacturers will resort to intellectual property law to protect their major investment in developing their products, either in the form of copyright, trademark, trade secret, and patent rights. Manufacturers may invoke copyright law to protect their software from being copied. Patents can secure manufacturers products component from an unauthorized use. Manufacturers can also rely on trade secret law to restrict the disclosure of the product repair manuals. The manufacturers desire to restrict independent repair based on intellectual property rights is to sustain vibrant and sound technology industry, which can fosters innovation. Manufacturers argues that permitting independent repair can make their protected intellectual property

¹⁵ Alfredo Putrawidjoyo. (2021). *Merawat dan Memperbaiki Semua yang Rusak: Center for Digital Society*. Retrieved from <https://cfds.fisipol.ugm.ac.id/id/2021/10/07/merawat-dan-memperbaiki-semua-yang-rusak/> (Accessed on 16 September 2022)

¹⁶ Muhammad Raidendy Prihasto. (2022). *Right To Repair Sebagai Perlindungan Konsumen Elektronik Dalam Perwujudan Ekonomi Sirkular*. Jakarta: UPN Veteran.

¹⁷ Irwansyah. (2020). *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel* (2nd ed.). Yogyakarta: Mirra Buana Media, p. 94-95

¹⁸ Kadarudin. (2021), *Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal)*, Semarang: Formaci Press, p. 257

products at significant risk¹⁹.

The rights to repair advocates often propose adverse impacts of electronic waste to environment, consumer autonomy, and fair competition in campaigning their movement²⁰. Leah Chan Grinvald and Ofer Tur-Sinai argues that such propositions has not directly disproved the objections against the right of repair movement. They then propose an analytical framework that justifies a right to repair that are compatible with intellectual property protection, consisting of internal justifications and external justifications. The former discuss about the utilitarian theory and non-utilitarian justifications (John Locke's *labour theory*, Hegel's personality theory, William Fisher's social planning theory). The latter considers the equilibrium between the benefit of intellectual property rights and social interests underlying a right to repair.

The utilitarian views the states' main goal is to enhance human well-being in society. The right to repair may give consumers an enjoyment in using goods and services in a fuller and more meaningful way, which entails more autonomy and involves less dependency upon the original suppliers of such goods and services. In term of enabling user innovation, repairing a product can make a user come up with ideas for improvements, variations, or spin-offs of the same product or be inspired to design something new. The third utilitarian justification that fits with the idea of a right to repair is by permitting consumer to repair a patented product may lead to a wider diffusion of knowledge about the technological features of the invention of such product. The right to repair could enhance a flow of information regarding technological innovation to the public.

The following is non-utilitarian justification. Based on John Locke's labour theory, every person have the right of to the fruits of her labour and earn sustenance. The right to repair can provide broad opportunities for every person who has the knowledge and expertise in repairing products to earn livelihood from repairing service. Justification a right to repair under Hegel's personality theory means that a person have to enjoy freedom of action with respect to their assets. Consumers who opt to independently repair their products may feel benefit by exercising their competence and having meaningful engagement, also as self-expression. By William Fisher's social planning theory, a right to repair could advance the position of individual consumers vis-à-vis products manufacturers. The repair market competition would lead to affordable and accessible repairs for consumers. It also encourage consumer to keep a repaired product instead of discarding it away and buy a new one.

Lastly about external consideration. The repair movement have general values and social interests such as a need for competitive repair markets, environmental concerns, and consumers' rights in their products. Such general values and social interests are indeed external to the logic and nature of intellectual property rights. Yet the law is always be designed to find an equilibrium between the benefit of intellectual property rights and other external interests that could be unfavourably impacted if those rights were too dominant. So those external elements become relevant since permitting repairs has been recognized to some extent as an interest worthy of consideration within various intellectual property law rules and doctrines, such as the fair use doctrine in copyright law and patents waiver in some cases. Leah Chan Grinvald and Ofer Tur-Sinai conclude that the right to repair could be conceived as important to achieve the prescribed goals of intellectual property law²¹.

The Development in the United States and the European Union

The first successful attempts to establish the right to repair in the United States started in the automotive industry. In 2012, the State of Massachusetts passed the Motor Vehicle Owners' Right to Repair Act, which requires car manufacturers to provide vehicle diagnostic and repair information to

¹⁹ The Federal Trade Commission. (2021). *Nixing the Fix: An FTC Report to Congress on Repair Restrictions*. (Pg. 24-26). Retrieved from <https://www.ftc.gov/reports/nixing-fix-ftc-report-congress-repair-restrictions> (Accessed on 16 September 2022). See also Perzanowski, A. (2022). *The Right to Repair: Reclaiming the Things We Own (1st ed.)*. Cambridge University Press, p. 110-166; Grinvald, L. C., & Tur-Sinai, O. (2019). *Intellectual Property Law and the Right to Repair*. Fordham Law Review Vol. 88 (1). New York City, New York. Pg. 97-124; Matthew Rimmer. (2021). *A Submission to the Productivity Commission Inquiry on the Right to Repair*. Productivity Commission 2021, p. 14-83

²⁰ Kelsea Weber. (2022). *10 Reasons to Support Right to Repair - iFixit News*. Retrieved from <https://www.ifixit.com/News/11590/10-reasons-to-support-right-to-repair> (Accessed on 16 September 2022). See also Kari Paul. (2021). *Why right to repair matters – according to a farmer, a medical worker, a computer store owner*. Retrieved from <https://www.theguardian.com/technology/2021/aug/02/why-right-to-repair-matters-according-to-a-farmer-a-medical-worker-a-computer-store-owner>; Faisal Rahman. (2022). *Sampah Elektronik dan Hak Untuk Memperbaiki (Right to Repair) – Pusat Studi Lingkungan Hidup UGM*. Retrieved from <https://pslh.ugm.ac.id/sampah-elektronik-dan-hak-untuk-memperbaiki-right-to-repair/>

²¹ ; Grinvald, L. C., & Tur-Sinai, O. (2019), Op Cit, p. 83-97

consumers and independent auto repair shops for maintenance and repair purposes²². The attempt to expand the right to repair in the electronics industry can be found after the South Dakota Senate Bill 136 of 2014 was introduced to ensure the availability of replacement parts and services for consumers of manufactured goods, although failed in the committee stage²³. In 2022, there is 17 active right-to-repair bill in the states of Washington, California, Nebraska, Oklahoma, Michigan, Illinois, Missouri, Vermont, Massachusetts, Connecticut, Pennsylvania, Virginia, Maryland, New Jersey, Georgia, Florida, and Hawaii²⁴.

In July 2021, President Biden signed Executive Order No.: 14036 on Promoting Competition in the American Economy. The Executive Order affirms President Biden's policy that will enforce the antitrust laws to combat the excessive concentration of industry, the abuses of market power, and the harmful effects of monopoly and monopsony, among other things, in repair markets. The Federal Trade Commission, therefore, is encouraged, among other things, to implement self-repair regulations to address persistent and recurrent unfair anti-competitive restrictions on third-party repair or self-repair of items, such as the restrictions imposed by powerful manufacturers that prevent farmers from repairing their equipment²⁵. From June 2021 to March 2022, three Democratic senators introduced a Fair Repair Act (Bill of Senate 3830 & Bill of House of Representative 4006) which requires original equipment manufacturers or OEM of digital electronic equipment to make available specific documentation, diagnostic, and repair information to independent repair providers, and for other purposes. It cover a wide range of products including consumer electronics and farming equipment.

The right-to-repair bill already passed is in Colorado state titled Consumer Wheelchair Repair Bill of Rights Act and in New York state titled the Digital Fair Repair Act. The Colorado's right-to-repair wheelchair law (House Bill 22-1031 and House Bill 22-1290) obliges a powered wheelchair manufacturer to make parts, software, tools, and repair manuals available to repair shops and actual owners of the powered wheelchair. Any practice to the contrary shall be considered a deceptive trade practice. Similarly, the New York's Digital Fair Repair Act (Senate Bill S4104A and Assembly Bill A7006B) requires manufacturers to make non-trade secret diagnostic and repair information available for sale to third-party repairers. Nothing prevents third-party repairers from being technically competent to complete digital repairs other than the lack of information being withheld by manufacturers.

The right to repair campaign is also gaining momentum in Europe. Based on a survey conducted by the European Commission, 77% of the consumers in the region would rather repair their goods than buy new ones²⁶. The European Commission has recognised a right to repair, with a view of protecting consumers and facilitating the development of a circular economy. In achieving a high level of consumer protection, the European Parliament have introduced the EU Sales of Goods Directive²⁷. Article 2 (12) of the EU Sales of Goods Directive stipulates a commercial guarantee to the consumer in which the seller or a producer (the guarantor) have to repair or service goods (in addition to partial price reimbursement or replacement) in any way if they do not meet the specifications or any other requirements not related to conformity set out in the guarantee statement. Article 14 of the EU Sales of Goods Directive prescribes that repairs or replacements shall be carried out with no additional cost, within a reasonable period of time; and without any significant inconvenience to the consumer. The consumer therefore have a right to have faulty products repaired or replaced, or to be partially or fully reimbursed during the legal guarantee period of two years.

The EU Eco-design Directive also regulates some related aspects of a right to repair. In the EU Eco-design Directive, one of thirteen parameters that must be supplemented for improving the environmental aspects of the product is an extension of a lifetime, minimum guaranteed lifetime, the

²² Kahane, L. (2022). *The impact of the Massachusetts 2012 right to repair law on small, independent auto repair shops*. Applied Economics Letters, 29(10), p. 873–879.

²³ Marissa MacAnaney. (2018). *If It is Broken, You Should Not Fix It: The Threat Fair Repair Legislation Poses to the Manufacturer and the Consumer*. St. John's Law Review, 92(2), p. 338

²⁴ The Repair Association. (2022). *Learn About the Right to Repair*. Retrieved from <https://www.repair.org/stand-up> (Accessed on 12 September 2022)

²⁵ The White House. (2021). *Executive Order on Promoting Competition in the American Economy*. Retrieved from <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/> (Accessed on 10 September 2022)

²⁶ European Commission. (2020). *Attitudes towards the Impact of Digitalisation on Daily Lives—March 2020—Eurobarometer survey*. Retrieved from <https://europa.eu/eurobarometer/surveys/detail/2228> (Accessed on 20 September 2022)

²⁷ The European Parliament and the Council of Europe. (2019). *Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC*. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L0771> (Accessed on 20 September 2022)

minimum time for availability of spare parts, modularity, upgradeability, and reparability²⁸. To date, the implementation of this Eco-design package is only focused on some energy-related products such as servers and data storage, refrigerating appliances, lamps, electronic displays, household dishwashers and household washing machines, and household washer-dryers. The EU Eco-design packages require manufacturers to ensure that spare parts are available for a certain number of years after the last item has been marketed, to deliver the ordered parts within 15 days, and to make maintenance information, including manuals, available to professional repairers.

The EU Ecolabel Rules also takes into account the issue of product reparability. The EU Ecolabel is the official European Union voluntary label for environmental excellence. For the award of the EU Ecolabel, the product should meet high ecological criteria during the entire life cycle: from raw material extraction through production and distribution to disposal. The label also encourages manufacturers to develop innovative products that are durable, easy to repair, and recyclable²⁹. For example, electronic display products need to be repair-friendly, have the availability of spare parts for eight years, and have a three-year commercial guarantee of three years at no additional cost³⁰.

The European Parliament also has strong support for improving consumers' options for repair. The European Parliament have adopted some consumers' right to repair related resolutions, for example the Resolution on Waste Prevention and Recycling, the Resolution on Resource efficiency Towards a Circular Economy, the Resolution on A Longer Lifetime for Products, the Resolution on A Sustainable Single Market for Business and Consumers, and the Resolution on New Circular Economy Action Plan³¹. The recent development which is primarily focusing on a right to repair is the Resolution on the right to repair No.: 2022/2515 (RSP). The Resolution on the right to repair have been adopted by the European Parliament in April 2022 with 509 votes in favour.

The right to repair resolution No.: 2022/2515 explains some considerations as follows:

- a. 79% of EU citizens believe that manufacturers should make their digital devices easy to repair or replace its individual parts;
- b. 77 % of EU citizens would rather repair their devices than replace them and repair businesses could be a source of local jobs and specific know-how in Europe;
- c. Certain obstacles prevent consumers from repairing the devices among which lack of information, unavailability of spare parts, lack of standardisation and interoperability or other technical barriers, as well as high costs of repair;
- d. The consumers' right to repair may represent a crucial tool in advancing industrial transition in European Union. A culture of repair offers sources of economic and social opportunities regarding entrepreneurship and job creation;
- e. It can create more sustainable products which is benefit both businesses and consumers by boosting demand in and the supply of sustainable goods.

The resolution on a right to repair encourages the European Commission to adopt a Sustainable Products Initiative revising the Eco-design Directive and widening its scope beyond energy related products. This resolution therefore provides some important actions for ensuring consumers' right to repair implemented in the European Union by means of i) designing products that last longer and can be repaired, ii) empowering consumers to choose repairable products, and iii) strengthening consumer rights and guarantees for a longer use of goods.

Based on the above explanation, the right to repair may cover some issues as follows:

- a. Consumers should not be prevented from completing their devices repaired independently, whether by themselves or by bringing them to independent shop repairs. The right to repair cannot be limited by guarantee for warranty nor after the guarantee period ends;

²⁸ The European Parliament and the Council of Europe. (2009). *Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products*. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009L0125> (Accessed on 18 September 2022)

²⁹ The Directorate-General for Environment of the European Commission. (2022). *EU Ecolabel*. Retrieved from https://environment.ec.europa.eu/topics/circular-economy/eu-ecolabel-home_en (Accessed on 18 September 2022)

³⁰ The European Commission. (2009).. 2009/300/EC: *Commission Decision of 12 March 2009 establishing the revised ecological criteria for the award of the Community Eco-label to televisions*. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32009D0300> (Accessed on 18 September 2022)

³¹ The Committee on the Internal Market and Consumer Protection. (2022). *European Parliament Resolution on Right to Repair (2022/2515(RSP))*. Retrieved from https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/IMCO/DV/2022/03-16/MfR_RighttoRepair_EN.pdf (Accessed on 20 September 2022)

- b. Manufacturers must make original spare parts, information, and tools (software as well as physical tools) necessary to repair available and should be clearly communicated to consumers as end users and independent shop repairs;
- c. Product design or software therein should be designed in a manner that allows repairs possible and convenient for consumers or technically competent repairers.

The Right To Repair: A Perspective From Indonesian Consumer Protection Law

Based on the principle of economic democracy, the national development in Indonesia is to create a just and prosperous society for equal distribution of material and spiritual welfare. The business sector must be supported to produce all kinds of goods/or services. Therefore, Law 08/1999 becomes necessary to create a balance of protection between the consumers and business sector interests. Celina Tri Siwi Kristiyanti argues that the current consumer protection law involves rules for the welfare of the people; not only will consumers get protection, but also entrepreneurs also have the same rights to get protection, and each has rights and obligations³².

Article 1 points 1 and 2 of Law 08/1999 stipulate the definition of "Consumers' Protection" and "Consumer." "Consumers' Protection" is all means which guarantee the legal security to protect the consumers. At the same time, the "Consumer" is each user of goods and services available in the public to benefit themselves, family members, other people, and other living, not for trading. Black Law Dictionary 9th Edition defines that "right" is a legally enforceable claim that another will do or will not do a given act or a recognized and protected interest, and "obligation" is a formal binding agreement or acknowledgment of a liability to pay a certain amount or to do a certain thing for a particular person or set of persons³³ (Bryan A. Garner & Henry Campbell Black, 2009, pp. 1441; 1179). The rights and obligations of consumers and entrepreneurs in Law 08/1999 become vital provisions to materialize consumer protection in Indonesia.

In general, there are eight basic rights of consumers namely the right to safety, the right to be informed, the right to choose, the right to be heard, the right to education, the right to redress, the right to the satisfaction of basic needs, the right to redress, the right to consumer education, and the right to a healthy environment³⁴. The Law 08/1999 stipulates consumers' rights in Article 4 in which the rights of the consumers are:

- a. To obtain comfort, security, and safety in using or consuming the goods and/or service;
- b. To choose the goods and/or services and obtain Point b the said goods and/or services in accordance with the promised conversion value and condition and warranty;
- c. To obtain correct, clear end honest information on the condition and warranty of the goods and/or services;
- d. To be heard in expressing opinions and complaints on the goods and/or services they use or consume;
- e. To obtain proper advocacy, protection, and settlement in the consumer's protection dispute;
- f. To obtain consumer training and education;
- g. To receive proper and honest and non-discriminatory treatment or service;
- h. To obtain compensation, redress, and/or substitution, if the goods and/or services received are not in accord with the agreement or not received as requested;
- i. To obtain rights as regulated in the other provisions of the law.

Kelik Wardiono states that consumers rights as stipulated in Article 4 can be classified into 4 (four) categories as follows³⁵:

- a. The right relating to consumer safety and mental health, contained in point a;
- b. The right relating to the availability of information from the offer and advertisement of goods and services, contained in point b and c;
- c. The right relating to non-discriminatory treatment, contained in points d, e, f, g, and h;
- d. the right to obtain compensation for losses suffered by consumers, contained in point h.

The following are the obligations of entrepreneurs' as stipulated in Article 7 of 08/1999, which

³² Celina Tri Siwi Kristiyanti. (2008). *Hukum Perlindungan Konsumen (1st Ed.)*. Jakarta: Sinar Grafika, p. 1

³³ Bryan A. Garner & Henry Campbell Black (Eds.). (2009). *Black's Law Dictionary (9th ed.)*. Minnesota: West, p. 1411 & 1179

³⁴ Ahmadi Miru & Sutarman Yodo. (2005). *Hukum Perlindungan Konsumen*. Jakarta: Sinar Grafika. Pg. 39; See. Also Celina Tri Siwi Kristiyanti. (2008), Op Cit, p. 4; Rosmawati. (2018). *Pokok-Pokok Hukum Perlindungan Konsumen (1st ed.)*. Depok: Prenadamedia Group, p. 52-53; Andi Sri Rezky Wulandari, & Nurdiana Tadjuddin, (2018). *Hukum Perlindungan Konsumen (Mira Nila Kusuma Dewi, Ed.)*. Jakarta: Mitra Wacana Media, p. 29-35

³⁵ Kelik Wardiono. (2014). *Hukum Perlindungan Konsumen: Aspek Substansi Hukum, Struktur Hukum dan Kultur Hukum dalam UU Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen*. Yogyakarta: Ombak, p. 53

can also be interpreted oppositely as consumer rights. The entrepreneurs' obligations are:

- a. to act in good faith in conducting the business;
- b. to provide correct, clear and honest information with regard to the condition and warranty of the goods and/or services and provide explanation on the use, repair and maintenance;
- c. to treat and serve the consumers properly and honestly and non-discriminatively;
- d. to guarantee the goods and/or services produced and/or traded based on the prevailing quality standard provisions of the goods and/or services;
- e. to provide the opportunity to the consumers to test and/or try on certain goods and/or services and provide warranty and/or guarantee on the produced and/or traded goods;
- f. to provide compensation, redress and/or substitution for the damages caused by the use, consumption and application of the goods and/or services;
- g. to provide compensation, redress and/or substitution if the goods and/or services received or used do not accord with the agreement.

In addition, Article 25 and Article 26 of Law 08/1999 require entrepreneurs to provide spare parts and after-sales facilities and are obligated to honour the guarantee or warranty based on the agreed contract. Entrepreneurs shall be responsible for any compensation claims and consumer's suit if failing to do so. In other words, consumers have a right of assurance that spare parts and after-sales facilities shall be available if their goods are broken or damaged. However, Law 08/1999 does not expressly regulate the right to repair as consumers' rights in Indonesia.

Nevertheless, some consumer rights and entrepreneurs' obligations as stipulated in Law 08/1999 may relate to the right-to-repair concept. Firstly, consumers have the right to obtain comfort, security, and safety in using goods. Secondly, consumers also must get correct, precise, unbiased information on the condition and warranty of the goods. Last but not least, consumers may claim compensation, redress, and/or substitution if the goods received are not in accord with the agreement or not received as requested. From the aspect of entrepreneurs' obligations, consumers also get assurance that the produced and/or traded goods shall be covered with a warranty and/or guarantee, and spare parts and after-sales facilities. However, those rights are too general and debatable whether covering the right to repair concept as developing in the United States or the European Union.

Not to mention that consumers also have responsibilities; for example, as stipulated in Article 5 point a. of Law 08/1999, in which consumers have to read or follow the information instructions and application or usage procedures of the goods for security and safety. In practice, entrepreneurs still impose standard terms for security and safety reasons or intellectual property rights protection. Such standard terms could be warranty shall be void for unauthorized opening or that only authorized, or certified after-sales facilities can conduct the repair. Article 5 point a. of Law 08/1999 may put consumers in a weak bargaining position as they must comply with the manufacturer's standard terms. It makes entrepreneurs can prevent consumers from completing repairs, whether by themselves or by bringing their devices to independent shop repairs. Besides, entrepreneurs can eventually restrict the availability of original spare parts, information, and tools necessary to repair only for authorized or certified after-sales facilities. Moreover, Law 08/1999 also does not stipulate the obligation for manufacturers to design devices that are possible and convenient for repairs by consumers or technically competent repairers.

CONCLUSION

Manufacturers effectively impose various measures to prevent the ability of non-expert (consumer as the owner of devices) or even expert (professional repair services) from repairing electronic equipment such as by product design, sale tactics, repair only on authorized service centers, and exploiting intellectual property protection. Obstacles to repair make the right-to-repair movement grows around the world. The right-to-repair movement is a broad international campaign to confront repair limitations and secure consumers' right to an independent repair choice.

The justification for the rights-to-repair concept, besides being based on consumer economic interest and environmental issues, may also be based on the utilitarian and non-utilitarian theory (internal justification) and a fair balance principle in intellectual property law (external justifications). Several right-to-repair legislative products have been introduced in the United States and the European Union. Such legislations make the right-to-repair concept more apparent so that consumers have more independent repair choice, and manufacturers are required to ensure the implementation of such rights.

Consumer protection law in Indonesia based on Law 08/1999 does not expressly stipulate the right to repair as consumers' rights in Indonesia. Consumer protection law in Indonesia is arguably not in consumers' favor since it may allow manufacturers to impose a measure preventing consumers

from completing repairs, whether by themselves or by bringing their devices to independent shop repairs

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