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## Bridging Legal Traditions in Consumer Protection: Criminal Liability in Comparative Jurisprudence and Contemporary Islamic Law

**Abstract:** Consumer protection has become an increasingly urgent legal issue in the era of global trade and digital commerce, where complex market structures and cross-border transactions intensify the vulnerability of consumers. This study aims to examine the construction of criminal liability in consumer protection by bridging different legal traditions through a comparative analysis of contemporary legal systems and Islamic legal principles. The research employs a normative legal method, using a comparative and conceptual approach to analyse statutory regulations, jurisprudence, and legal scholarship from several jurisdictions, including Indonesia, the United Kingdom, and Malaysia, alongside perspectives from contemporary Islamic law. The findings demonstrate that Indonesia's consumer protection regime, regulated under Law No. 8 of 1999 on Consumer Protection, is primarily grounded in the principles of benefit, justice, and legal certainty. Yet, it still places criminal sanctions as *ultimum remedium* and largely relies on fault-based liability with a reverse burden of proof. In contrast, the United Kingdom applies a strict liability regime for defective products, influenced by the Product Liability Directive, which enables stronger producer accountability regardless of fault. Malaysia adopts a hybrid regulatory approach, particularly in addressing consumer risks within digital and online transactions. From the perspective of contemporary Islamic law, consumer protection is normatively supported by principles such as the protection of property (*ḥifẓ al-māl*), the removal of harm (*al-ḍarar yuzāl*), and the prohibition of fraudulent practices (*gharar* and *tadlīs*), which conceptually reinforce stricter liability frameworks for producers. This study contributes to the development of consumer protection discourse by proposing a bridging framework between comparative jurisprudence and Islamic legal principles. It argues that integrating strict liability concepts with *maqāṣid*-oriented Islamic legal values can strengthen the normative and institutional design of consumer protection regimes,

particularly in Indonesia, by enhancing legal certainty, accountability, and consumer justice in the contemporary marketplace.

**Keywords:** Comparative Jurisprudence; Consumer Protection; Contemporary Islamic Law; Criminal Liability; Legal Traditions.

## INTRODUCTION

Consumer protection has increasingly become a central issue in contemporary legal systems as modern societies strive to balance economic development with social justice and public welfare.<sup>1</sup> The rapid expansion of global markets, technological advancement, and the proliferation of digital transactions have significantly transformed the relationship between consumers and business actors. In this evolving environment, consumers often face asymmetrical information, unequal bargaining positions, and limited control over the quality and safety of goods or services offered in the marketplace. As a result, legal systems must establish regulatory frameworks that not only facilitate economic growth but also protect consumer rights.<sup>2</sup> Within this context, criminal liability plays an important role as a legal instrument to deter unlawful business practices, ensure accountability, and maintain public trust in market transactions.<sup>3</sup>

The transformation of market structures driven by globalisation and digitalisation has reshaped the dynamics of consumer-business interactions in unprecedented ways.<sup>4</sup> The expansion of e-commerce platforms, online marketplaces, digital payment systems, and algorithm-based marketing strategies has created new opportunities for economic growth

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<sup>1</sup> Ridwan Arifin et al., "Protecting the Consumer Rights in the Digital Economic Era: Future Challenges in Indonesia," *Jambura Law Review* 3 (April 2021): 135-160, <https://doi.org/10.33756/jlr.v3i0.9635>.

<sup>2</sup> Heejin Kim, "Globalization and Regulatory Change: The Interplay of Laws and Technologies in E-Commerce in Southeast Asia," *Computer Law & Security Review* 35, no. 5 (October 2019): 105315, <https://doi.org/10.1016/j.clsr.2019.03.009>.

<sup>3</sup> Bambang Sugeng Ariadi Subagyo et al., "Can Indonesia's Laws Keep Up? Protecting Consumer Rights in Digital Transactions," *Journal of Law and Legal Reform* 5, no. 3 (October 2024): 869-890, <https://doi.org/10.15294/jllr.v5i3.4202>.

<sup>4</sup> Sofian Al Hakim et al., "Contextualising Shari'ah Economic Law: The Role of Pesantren in Indonesia's Socio-Legal Landscape," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 2 (September 2025): 479-496, <https://doi.org/10.29300/mzn.v12i2.7926>.

while simultaneously introducing new risks for consumers.<sup>5</sup> Digital transactions enable consumers to access goods and services across geographical boundaries more efficiently.<sup>6</sup> However, the same technological advancements also create vulnerabilities, such as misleading advertisements, fraudulent online transactions, defective or unsafe products, and the misuse of consumer data. These developments challenge conventional legal frameworks designed primarily to regulate traditional forms of commerce. Consequently, modern consumer protection regimes must adapt to address both conventional and digital forms of economic misconduct.<sup>7</sup>

In Indonesia,<sup>8</sup> consumer protection is primarily regulated under Law No. 8 of 1999 on Consumer Protection (Undang-Undang Perlindungan Konsumen/UUPK), which establishes several fundamental principles, including benefit, justice, balance, security, and legal certainty. The law provides various mechanisms to protect consumers, including administrative measures, civil liability, and criminal sanctions against business actors who violate consumer rights. Criminal sanctions in the UUPK function as a deterrent mechanism to ensure compliance with regulatory standards. However, in practice, criminal law is often treated as *ultimum remedium*, meaning that it is applied as a last resort after other legal mechanisms have failed. Additional legal frameworks, such as Law No. 7 of 2014 on Trade and Law No. 19 of 2016 amending the Electronic Information and Transactions Law, aim to address emerging issues in digital commerce. Despite these legal instruments, enforcement challenges remain significant, particularly in cases involving

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<sup>5</sup> I. Benöhr, "The United Nations Guidelines for Consumer Protection: Legal Implications and New Frontiers," *Journal of Consumer Policy* 43, no. 1 (March 2020): 105-124, <https://doi.org/10.1007/s10603-019-09443-y>.

<sup>6</sup> Tuan Muhammad Faris Hamzi Tuan Ibrahim, Nasrul Hisyam Nor Muhamad, and Ahmad Syukran Baharuddin, "Maqāsid Al-Shari'ah and Digital Forensics: Towards a Fiqh-Based Evidentiary Model in Shari'ah Criminal Justice," *Al'Adalah* 22, no. 2 (December 2025): 565-598, <https://doi.org/10.24042/adalah.v22i2.27886>.

<sup>7</sup> Mochamad Kevin Romadhona et al., "Palestine Under Attack: Humanitarian Principles in Case of Armed Conflict," *Journal of Law and Legal Reform* 6, no. 2 (April 2025): 693-756, <https://doi.org/10.15294/jllr.v6i2.19692>.

<sup>8</sup> Andri Winjaya Laksana, et al., "Criticism of Legal Protection For Victims of Drug Abuse: The Disharmony in Legal Substance Regulation." *Legality: Jurnal Ilmiah Hukum* 33, no. 01 (2025): 93-109, <https://doi.org/10.22219/ljih.v33i1.36680>.

misleading digital advertisements, fraudulent online transactions, and products that do not meet the specifications advertised on online platforms.<sup>9</sup>

Beyond the limitations of regulatory enforcement, another important dimension of consumer protection lies in the normative and ethical foundations that shape economic behaviour.<sup>10</sup> In many societies, including Indonesia, legal consciousness is influenced not only by statutory regulations but also by religious and moral values embedded within social traditions.<sup>11</sup> Islamic legal thought, for instance, contains a rich tradition of market ethics that emphasises fairness, honesty, and accountability in commercial transactions. Classical Islamic jurisprudence prohibits practices such as fraud (*gharar*), deception (*tadlīs*), and unjust exploitation (*ẓulm*), all of which are considered harmful to market integrity and social welfare.<sup>12</sup> These ethical principles are closely related to the broader objectives of *maqāṣid al-sharīʿah*, particularly the protection of wealth (*ḥifẓ al-māl*) and the promotion of justice in economic life. From this perspective, consumer protection is not merely a regulatory obligation but also a moral responsibility embedded within the broader framework of Islamic economic ethics.

The convergence between modern legal frameworks and Islamic ethical principles provides an important opportunity to develop a more comprehensive understanding of consumer protection law.<sup>13</sup> Rather than treating secular legal systems and religious normative frameworks as separate spheres, contemporary legal scholarship increasingly emphasises the need to bridge these traditions to construct a more holistic regulatory

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<sup>9</sup> Sri Endah Kinasih et al., “Culture, Tourism and Migration in Bintan Borderland - Legal Anthropology Perspective,” *Cogent Arts & Humanities* 12, no. 1 (December 2025): 2602382, <https://doi.org/10.1080/23311983.2025.2602382>.

<sup>10</sup> Hamda Sulfinadia et al., “Negotiating Islamic Inheritance and Customary Law: Functional Legal Pluralism and Matrilineal Pusako Randah in Minangkabau,” *Journal of Islamic Law* 7, no. 1 (February 2026): 1–30, <https://doi.org/10.24260/jil.v7i1.3743>.

<sup>11</sup> Andi Sugirman et al., “Balancing Individual Political Rights and Institutional Integrity in an Islamic Constitutional Perspective on Party Switching in Indonesia,” *El-Mashlahah* 15, no. 2 (December 2025): 369–392, <https://doi.org/10.23971/el-mashlahah.v15i2.9995>.

<sup>12</sup> Syihabudin et al., “Contemporary Dynamics of Sharia Economic Law: DSN-MUI Fatwa No. 21/2001 in Takaful Dispute Rulings,” *MILRev: Metro Islamic Law Review* 4, no. 2 (July 2025): 868–898, <https://doi.org/10.32332/milrev.v4i1.10470>.

<sup>13</sup> Yevhen Leheza et al., “Interpretation of Regulatory and Legal Acts in Contemporary Contexts: Foreign Experience, Comparative Perspectives, and Pathways for Regulatory Reform,” *NUSANTARA: Journal Of Law Studies* 5, no. 1 (February 2026): 102–122, <https://doi.org/10.5281/zenodo.18727992>.

approach. The integration of comparative legal perspectives and Islamic legal principles may offer valuable insights into how different legal traditions conceptualise accountability, fairness, and justice in market transactions. Such an approach is particularly relevant in countries with plural legal cultures, where statutory law, customary norms, and religious values interact in shaping legal practices.

A comparative legal perspective further reveals<sup>14</sup> that different jurisdictions adopt diverse approaches in regulating consumer protection and criminal liability. In Malaysia, consumer protection is governed by the Consumer Protection Act 1999 (CPA 1999), which establishes a comprehensive regulatory framework that combines administrative enforcement mechanisms, consumer dispute-resolution institutions, and criminal sanctions for specific violations. The Malaysian model emphasizes institutional enforcement through regulatory agencies, while also providing accessible mechanisms for consumer complaints and dispute resolution. Meanwhile, in the United Kingdom, consumer protection is regulated through a series of legislative instruments, including the Consumer Protection Act 1987, which focuses particularly on product safety and strict liability for defective products. This approach reflects a regulatory model that prioritizes public safety and imposes legal liability on producers and manufacturers, regardless of fault, for defective products that cause harm to consumers. These comparative experiences demonstrate that criminal liability in consumer protection law can be structured through different legal models, depending on each jurisdiction's regulatory priorities and legal traditions.

Although previous studies have extensively discussed consumer protection from various perspectives, several important gaps remain in the existing literature. First, a study by Mas Rara (2023) examined the implementation of consumer protection law in Indonesia and highlighted challenges in regulatory enforcement for digital transactions.<sup>15</sup> However,

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<sup>14</sup> Andri Winjaya Laksana, et al., "Legal Uncertainty in Law Enforcement for Drug Addicts Resulting in Criminal Disparity." *Yuridika* 40, no. 02 (May 2025): 253-270, <https://doi.org/10.20473/ydk.v40i2.68153>.

<sup>15</sup> Mas Rara Tri Retno Herryani, "Enhancing Legal Protection for Digital Transactions: Addressing Fraudulent QRIS System in Indonesia," *Rechtsidee* 11, no. 1 (June 2023): 10.21070/jihr.v12i1.990-10.21070/jihr.v12i1.990, <https://doi.org/10.21070/jihr.v12i1.990>.

the research focused primarily on statutory analysis and did not explore the comparative dimensions of criminal liability across different legal systems. Second, a study by Zaini et al. (2024) analyzed the institutional framework of consumer protection in Malaysia, emphasizing administrative enforcement mechanisms and dispute-resolution processes.<sup>16</sup> While this research provided valuable insights into the Malaysian regulatory model, it did not examine the broader comparative implications for other jurisdictions. Third, a study by Gilani et. al. (2023) discussed strict liability in consumer protection law in the United Kingdom, particularly in relation to defective products and product safety regulations.<sup>17</sup> Nevertheless, this study remained confined to the Western legal tradition and did not consider the normative contributions of Islamic legal thought in shaping consumer protection principles.

These previous studies demonstrate that consumer protection has been widely discussed within the frameworks of national law, institutional enforcement, and product liability. However, limited research has attempted to integrate comparative legal analysis with contemporary Islamic legal perspectives in examining criminal liability in consumer protection. The absence of such interdisciplinary approaches creates a gap in the literature, particularly in understanding how ethical principles derived from Islamic jurisprudence can complement modern legal frameworks in addressing consumer harm in the digital economy.

This gap, the novelty of this research lies in its effort to bridge three distinct yet interconnected dimensions: comparative jurisprudence, criminal liability in consumer protection law, and contemporary Islamic legal thought. Unlike previous studies that focus on a single legal system or a purely doctrinal analysis, this study adopts an interdisciplinary, comparative approach that examines the construction of criminal liability across jurisdictions while simultaneously exploring the ethical foundations of consumer

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<sup>16</sup> Muhamad Ikhwan Mohd Zain et al., “Legal Analysis of Malaysia’s Integrated Dispute Resolution Scheme: Lessons from Other Countries,” *Environment-Behaviour Proceedings Journal* 9, no. 28 (March 2024): 253–258, <https://doi.org/10.21834/e-bpj.v9i28.5809>.

<sup>17</sup> Syed Raza Shah Gilani, Zahid Ullah, and Aisha Nayab Qureshi, “Legal and Political Perspectives on Consumer Protection Laws in Post-Brexit Britain: An Analysis,” *Pakistan Journal of Social Research* 5, no. 02 (May 2023): 386–392, <https://doi.org/10.52567/pjsr.v5i02.1093>.

protection in Islamic jurisprudence. By integrating these perspectives, the study aims to develop a more comprehensive framework for understanding consumer protection law in the context of modern economic challenges.

Accordingly, this study seeks to address the following research question: How can criminal liability in consumer protection law be conceptualized through a comparative legal perspective, incorporating the normative principles of contemporary Islamic law to strengthen consumer justice in modern market systems? The significance of this research lies in both its theoretical and practical implications. From a theoretical perspective, the study contributes to the development of interdisciplinary legal scholarship by integrating comparative law and contemporary Islamic legal thought in the analysis of consumer protection. From a practical perspective, the findings of this research may provide policymakers, legal practitioners, and regulatory institutions with insights for designing more effective consumer protection policies that combine legal enforcement with ethical accountability. Ultimately, by bridging legal traditions and comparative jurisprudence, this research aims to contribute to the development of a more responsive and holistic consumer protection framework capable of addressing the challenges posed by the evolving global and digital marketplace.

## **METHOD**

This study employs a normative legal research method with a comparative and conceptual approach<sup>18</sup> to analyse the construction of criminal liability in consumer protection law across different legal traditions. Normative legal research examines legal norms, statutory provisions, and legal doctrines related to consumer protection and criminal sanctions in market transactions. The comparative approach is applied to analyse similarities and differences in consumer protection regulations in Indonesia, Malaysia, and the United Kingdom. In contrast, the conceptual approach is used to explore the normative principles of contemporary Islamic law that emphasise ethical responsibility in commercial

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<sup>18</sup> Andri Winjaya Laksana, et al., "Integrating Maqasid al-Shari'ah in Contemporary Islamic Legal Reform on Drug Policy." *MILRev: Metro Islamic Law Review* 4, no. 01 (2025): 416-439, <https://doi.org/10.32332/milrev.v4i1.10665>.

activities. Data in this study are collected through library research,<sup>19</sup> which involves examining primary legal sources such as statutes, regulations, and official legal documents related to consumer protection, as well as secondary sources such as academic books, journal articles, and scholarly discussions on comparative consumer law and Islamic commercial ethics.

The collected data are analyzed using qualitative legal analysis, focusing on the interpretation of legal norms, the comparative evaluation of regulatory frameworks, and the conceptual examination of Islamic legal principles relevant to consumer protection. The analysis proceeds through several stages, including the classification of legal materials, systematic comparison of regulatory provisions, and interpretative analysis to identify patterns of criminal liability across different jurisdictions. To ensure the validity and reliability of the findings, this study applies source triangulation and doctrinal validation, which involve cross-checking legal sources from statutes, scholarly literature, and authoritative legal commentaries. This validation process allows the research to maintain analytical consistency and strengthen the credibility of its conclusions in bridging comparative jurisprudence with contemporary Islamic legal perspectives in consumer protection law.

## RESULTS AND DISCUSSION

### Criminal Offences Against Consumer Protection in Indonesia

Consumer protection is a crucial aspect of Indonesian law<sup>20</sup>. Consumers are often harmed by irresponsible businesses, whether through substandard products, misleading information, or poor service. Therefore, the government has a responsibility to provide effective legal protection for consumers to ensure legal certainty and create fairness in trade. Measures such as strict regulations, robust law enforcement, and public education are key to protecting consumer rights. Law Number 8 of 1999 concerning Consumer Protection

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<sup>19</sup> Andri Winjaya Laksana, Hendro Widodo and Dian Pramana, "Critical Opinion Paradigm Regulation of Criminal Actions of Drug Abuse Through Religious Rehabilitation Based on the Legal System," *Media Iuris* 7, no. 03 (October 2024): 401-416, <https://doi.org/10.20473/mi.v7i3.62984>.

<sup>20</sup> H. Matnuh, "Rectifying Consumer Protection Law and Establishing of a Consumer Court in Indonesia," *Journal of Consumer Policy* 44, no. 3 (September 2021): 483-495, <https://doi.org/10.1007/s10603-021-09487-z>.

(UUPK) which serves as the primary tool for ensuring consumer rights and governing the responsibilities of business actors, is the legal foundation for consumer protection in Indonesia. In addition to governing the rights and responsibilities of parties in commercial transactions, the Consumer Protection Law (UUPK) imposes criminal penalties on companies that violate it, including selling inferior products or disseminating false information.<sup>21</sup> These penalties are intended to deter companies from engaging in consumer-harmful behavior. However, law enforcement still faces several challenges in implementing it, including limited public awareness of consumer rights, inadequate oversight, and difficulties in pursuing companies that violate the UUPK rules.<sup>22</sup>

The implementation of criminal sanctions for consumer protection violations in Indonesia continues to face various obstacles that hamper effective law enforcement.<sup>23</sup> One key factor is consumers' lack of understanding of their rights, leading to many violations going unreported and unaddressed.<sup>24</sup> Furthermore, challenges in law enforcement, such as weak oversight, a lack of coordination between agencies, and various obstacles in the judicial process, exacerbate the situation and make it difficult to prosecute irresponsible business actors.<sup>25</sup> The existence of UUPK is inseparable from the development of globalisation and industrialisation, which have both positive and negative impacts on consumers.<sup>26</sup> On the one hand, industrial progress increases public access to various

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<sup>21</sup> Athiyah Safirazkiya Yusuf, "Legal Analysis of Consumer Protection against Companies Not Fulfilling Consumer Obligations," *Estudiante Law Journal* 7, no. 1 (January 2025): 56–73, <https://doi.org/10.33756/eslaj.v7i1.29907>.

<sup>22</sup> Agung Sujatmiko, Mochamad Kevin Romadhona, and Yuniar Rizky Saraswati, "Patents at the Crossroads: Legal Pathways for Advancing Technology Transfer in Indonesia," *LAW REFORM* 21, no. 1 (2025): 94–119.

<sup>23</sup> Muchlis Muchlis et al., "Child-Centered Adjudication: Integrating the Best Interests Principle Into Indonesian Marital Property Distribution," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 2 (October 2025): 473–492, <https://doi.org/10.19109/nurani.v25i2.30371>.

<sup>24</sup> Suné Donoghue and Helena M. De Klerk, "The Right to Be Heard and to Be Understood: A Conceptual Framework for Consumer Protection in Emerging Economies," *International Journal of Consumer Studies* 33, no. 4 (July 2009): 456–467, <https://doi.org/10.1111/j.1470-6431.2009.00773.x>.

<sup>25</sup> Khamim, Moch. Choirul Rizal, and Andi Ardiyan Mustakim, "Convergence of Restorative Justice and Al-'Afwu: Reforming Criminal Procedure Law in Indonesia," *Justicia Islamica* 22, no. 2 (2025): 277–302, <https://doi.org/10.21154/justicia.v22i2.9807>.

<sup>26</sup> Nizla Rohaya, Dini Bahraini Sinulingga, and Upik Mutiara, "Challenges Of Indonesian Contract Law In The Digital Business Era," *Pagaruyuang Law Journal* 7, no. 1 (July 2023): 1–15, <https://doi.org/10.31869/plj.v7i1.4552>.

products and services, but on the other hand, various risks arise, such as abuse by irresponsible business actors. Therefore, UUPK serves to ensure that consumer rights remain protected and that business actors comply with established provisions. Law Number 8 of 1999 was passed on April 20, 1999, and came into effect on April 20, 2000.<sup>27</sup>

The Consumer Protection Law (UUPK) contains various provisions regarding sanctions, including criminal sanctions<sup>28</sup>, aimed at businesses that violate consumer rights. The application of these criminal sanctions aims to deter businesses that engage in dishonest practices that could harm consumers.<sup>29</sup> One of the main characteristics of criminal law is the existence of strict sanctions that attack fundamental human legal interests. These sanctions are intimidating, thus encouraging compliance with the law and preventing actions that harm others. Under the criminal sanctions provisions of the Consumer Protection Law (UUPK), consumers have greater protection against various forms of violations committed by business actors. Criminal law plays a crucial role in upholding justice by imposing strict sanctions on anyone who violates or disregards the orders and prohibitions set out in legal regulations. In a narrower sense, criminal law is often referred to as the law of sanctions, because every violation of criminal norms carries consequences, such as suffering or an unpleasant punishment, for the perpetrator.<sup>30</sup> These sanctions are imposed as a form of accountability for actions that harm others, especially when those actions violate another individual's freedom or right to life.

The general application of criminal law emphasises that criminal law provisions apply to everyone without exception<sup>31</sup>. This means that any individual found guilty of a

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<sup>27</sup> Hikmahanto Juwana, "Reform Of Economic Laws And Its Effects On The Post-Crisis Indonesian Economy," *The Developing Economies* 43, no. 1 (March 2005): 72-90, <https://doi.org/10.1111/j.1746-1049.2005.tb00253.x>.

<sup>28</sup> Sri Endah Kinasih et al., "Human Migration, Infectious Diseases, Plague, Global Health Crisis - Historical Evidence," *Cogent Arts & Humanities* 11, no. 1 (December 2024): 2392399, <https://doi.org/10.1080/23311983.2024.2392399>.

<sup>29</sup> Sheila Kusuma Wardani Amnesti et al., "From Regulation to Ethics: The Legal Effectiveness of Smart Village Policy through Village SDGs and Maqāṣid al-Sharīah," *Justicia Islamica* 22, no. 2 (2025): 247-276, <https://doi.org/10.21154/justicia.v22i2.11831>.

<sup>30</sup> Rachmah Ida et al., "Multiculturalism in Singkawang: Tolerance and Inter-Ethnic Communications Practices among the Diasporic Communities," *Globalisation, Societies and Education*, July 3, 2025, 1-17, <https://doi.org/10.1080/14767724.2025.2523360>.

<sup>31</sup> R. A. Duff, "Inclusion, Exclusion and the Criminal Law," *Policy Futures in Education* 1, no. 4 (December 2003): 699-715, <https://doi.org/10.2304/pfie.2003.1.4.7>.

violation or crime can be subject to sanctions in accordance with applicable regulations. This principle aims to create order and protect society at large, allowing the law to function as a tool for prevention and the upholding of justice in social life. The general application of criminal law, known as *ius commune*, asserts that criminal law provisions apply to everyone without exception.<sup>32</sup> This means that any individual found guilty of a violation or crime can be subject to sanctions in accordance with applicable regulations. This principle aims to create order and protect society at large, allowing the law to function as a tool for prevention and the upholding of justice in social life.<sup>33</sup>

Article 62 of the Consumer Protection Law regulates various forms of violations that can result in criminal sanctions for businesses. These include noncompliance with established product quality standards, failure to provide consumers with accurate and clear information, and the use of misleading sales practices. These violations have the potential to harm consumers, both materially and immaterially; thus, the law protects by imposing sanctions on businesses that fail to fulfil their obligations in accordance with applicable regulations. The provisions of the Consumer Protection Law (UUPK) aim to ensure that business actors are responsible in carrying out their business activities and do not engage in practices that are detrimental to the public. Therefore, the existence of regulations on criminal sanctions is expected to encourage business actors to be more careful in providing products and services that comply with standards and to maintain transparency in their information to consumers. Various types of consumer crimes can be committed by economic actors, including producers, by supplying or trading goods that do not comply with established standards. Furthermore, other actions that can harm consumers include providing goods or engaging in business transactions intended to benefit oneself or others,

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<sup>32</sup> Mochamad Kevin Romadhona, "Does the Pandemic Affect Unemployment Rate in East Java? (A Study of Pre and Post COVID-19 Pandemic in 2016 to 2021)," *The Journal of Indonesia Sustainable Development Planning* 3, no. 2 (August 2022): 164–176, <https://doi.org/10.46456/jisdep.v3i2.308>.

<sup>33</sup> Mochamad Kevin Romadhona and Rachmat Dimas Oktafenanda, "The Hidden Harvest: Unlocking Efficiency in East Java's Farming Sector," *Journal of Urban Sociology* 1, no. 1 (May 2025): 59, <https://doi.org/10.30742/jus.v1i1.4220>.

without considering consumers' interests.<sup>34</sup> This kind of crime is a major concern in consumer protection law because it can harm society at large.

If consumers believe a business actor has harmed them, they are entitled to file a criminal report with the police in accordance with applicable legislation.<sup>35</sup> In this scenario, the business actor suspected of violating the law is the Reported Party, and the customer is the Reporter. Business actors who are found to have violated the Consumer Protection Law may face harsh criminal penalties. Business actors who violate the provisions of several articles of the Consumer Protection Law<sup>36</sup>, such as Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letters a, b, c, e, paragraph (2), and Article 18, may face a maximum sentence of five years in prison or a maximum fine of two billion rupiah, according to Article 62 paragraph (1). In the meantime, business actors who violate Article 11, Article 12, Article 13 paragraph (1), Article 14, Article 16, and Article 17 paragraph (1) letters d and f may face a maximum sentence of two years in prison or a maximum fine of five hundred million rupiah, according to Article 62 paragraph (2). The appropriate criminal laws will subsequently be applied more harshly if the business actor's breach results in more serious consequences, such as significant injury, serious illness, permanent disability, or even death, according to Article 62, paragraph (3).

Article 63 of the Consumer Protection Law (UUPK)<sup>37</sup> stipulates that additional penalties may be imposed in addition to the criminal sanctions set out in Article 62. These additional penalties include various measures intended to deter business actors who violate consumer rights. These additional penalties may include confiscation of certain goods, the announcement of a judge's decision, payment of compensation, an order to cease activities

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<sup>34</sup> Rachmah Ida et al., "Women's Involvements in Communication Forum for Disaster Management and Resilience in Eruption of Mount Semeru, Lumajang, East Java," *Discover Social Science and Health* 5, no. 1 (October 2025): 152, <https://doi.org/10.1007/s44155-025-00307-0>.

<sup>35</sup> Nikos Passas, "Lawful but Awful: 'Legal Corporate Crimes,'" *The Journal of Socio-Economics* 34, no. 6 (December 2005): 771-786, <https://doi.org/10.1016/j.socec.2005.07.024>.

<sup>36</sup> H. Matnuh, "Rectifying Consumer Protection Law and Establishing of a Consumer Court in Indonesia," *Journal of Consumer Policy* 44, no. 3 (September 2021): 483-95, <https://doi.org/10.1007/s10603-021-09487-z>.

<sup>37</sup> Deviana Yuanitasari, Hazar Kusmayanti, and Agus Suwandono, "A Comparison Study of Strict Liability Principles Implementation for the Product Liability within Indonesian Consumer Protection Law between Indonesia and United States of America Law," *Cogent Social Sciences* 9, no. 2 (December 2023): 2246748, <https://doi.org/10.1080/23311886.2023.2246748>.

that cause consumer harm, an obligation to withdraw goods from circulation, or even the revocation of business licenses.<sup>38</sup> This provision demonstrates that consumer protection is not limited to the imposition of primary criminal sanctions but also includes preventive measures to prevent business actors from repeating actions that harm consumers. In practice, there are still many cases of consumer crime involving companies that fail to fulfil purchase orders. One common violation is when goods received by consumers do not meet the promised quality standards, whether through digital applications such as online stores or physical stores. Law Number 7 of 2014 concerning Trade, specifically Article 113, stipulates that companies selling products that do not meet quality standards or the Indonesian National Standard (SNI) can be subject to a prison sentence of up to five years.<sup>39</sup>

Although the Consumer Protection Law (UUPK) has stipulated various criminal sanctions for businesses that violate consumer rights, its implementation in practice continues to face challenges.<sup>40</sup> One of the main obstacles is the lack of consumer awareness of their rights. Many consumers are unaware that they have legal protection when they suffer losses due to unfair business practices. In fact, some consumers are reluctant or afraid to report violations because they consider the legal process too complicated and time-consuming. Furthermore, weak law enforcement also hinders the application of criminal sanctions against businesses that harm consumers. Slow and ineffective legal processes often result in many violation cases going unaddressed or ending without a fair verdict. The government, as the authority, has also not taken fully effective steps to prosecute businesses that engage in unfair business practices. As a result, many companies continue to operate despite clearly committing violations that harm and endanger consumers.

The lack of public awareness of the Consumer Protection Law (UUPK) and consumer rights among the public and businesses is also a contributing factor to weak

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<sup>38</sup> Mochamad Kevin Romadhona et al., "Riding the Wave of Innovation: A Qualitative Analysis of Public Transport Drivers' Adaptation to Online-Based Transportation Services," *Biokultur* 13, no. 1 (June 2024): 16–25, <https://doi.org/10.20473/bk.v13i1.54162>.

<sup>39</sup> Vena Safira Adelita, Astutik, and Mochamad Kevin Romadhona, "Medical Services Through Online Media In Health Law Perspective," *Malaysian Journal of Medicine and Health Sciences* 19 (2023): 25–33, Scopus.

<sup>40</sup> Agung Sujatmiko, Ghansham Anand, and Mochamad Kevin Romadhona, "Critical Legal Analysis on Medicine or Vaccine License for Strengthening Access to Justice in Indonesia: A Case of Corona Vaccine Licensing," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 3 (2025): 791–806.

consumer protection<sup>41</sup>. Many people do not understand the legal remedies available to them if they suffer losses due to businesses' actions. Furthermore, some businesses also lack a clear understanding of their obligations to provide products and services that comply with applicable legal standards.<sup>42</sup> This inadequate awareness leads to ignorance and noncompliance with consumer protection regulations.<sup>43</sup> Given these challenges, strategic steps are needed to improve the effectiveness of the Consumer Protection Law (UUPK). Increasing consumer awareness, strengthening law enforcement, and intensifying outreach to the public and businesses are crucial steps to ensure that consumer rights are maximally protected.<sup>44</sup> To increase the effectiveness of the criminal sanctions stipulated in the Consumer Protection Law (UUPK), various efforts must be systematic and sustained. One key step is to raise consumer awareness of their rights. The government, non-governmental organizations, and the mass media play a crucial role in campaigning for consumer protection, encouraging the public to understand their rights better and report harmful violations.<sup>45</sup>

Furthermore, strengthening law enforcement is key to ensuring that criminal sanctions under the Consumer Protection Law (UUPK) are effectively implemented. Law enforcement officials need to be more responsive in following up on reports of violations committed by business actors. Furthermore, law enforcement officials must issue firm, fair decisions in cases of consumer rights violations to deter businesses from committing similar

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<sup>41</sup> Wiwik Sri Widiarty and Md Hasnath Kabir Fahim, "Institutional Roles and Mechanisms in Upholding Legal Protection Under Consumer Protection Law in the Era of Globalization," *Jurnal Hukum* 40, no. 2 (December 2024): 134, <https://doi.org/10.26532/jh.v40i2.40717>.

<sup>42</sup> Aktieva Tri Tjitrawati and Mochamad Kevin Romadhona, "Living beyond Borders: The International Legal Framework to Protecting Rights to Health of Indonesian Illegal Migrant Workers in Malaysia," *International Journal of Migration, Health and Social Care* 20, no. 2 (2024): 227-245.

<sup>43</sup> Youssef Abdel Rahman, "Developing Inclusive Education Models to Advance Gender Justice and Social Equity for All Learners," *Nusantara Education* 4, no. 2 (December 2025): 11-25, <https://doi.org/10.66325/nusantaraeducation.v4i2.249>.

<sup>44</sup> Aktieva Tri Tjitrawati et al., "The Palu Disaster and Indonesia's Obligation to Ensure the Right of Adequate Housing and Land Rights: Mission Accomplished?," in *The Asian Yearbook of Human Rights and Humanitarian Law*, ed. Matthias Vanhullebusch, Steve Foster, and Ben Stanford (Brill | Nijhoff, 2024), 311-351, [https://doi.org/10.1163/9789004706477\\_011](https://doi.org/10.1163/9789004706477_011).

<sup>45</sup> R. Yahdi Ramadani, Aktieva Tri Tjitrawati, and Mochamad Kevin Romadhona, "Humanitarian Commitment: Indonesia's Policy on Refugees' Rights to Health," *Healthcare in Low-Resource Settings* 12, no. S2 (2024).

acts in the future.<sup>46</sup> Furthermore, in addition to law enforcement, public awareness campaigns on the UUPK and consumer rights must be intensified for both the general public and business actors. This outreach can be conducted through various media, including seminars, training, and public discussions.<sup>47</sup> Business actors also need to understand their obligations to provide products and services that comply with applicable legal standards, enabling them to run their businesses more responsibly and ethically. Based on this analysis, it can be concluded that criminal sanctions are an important instrument in the Consumer Protection Law (UUPK) for protecting consumers.<sup>48</sup> However, its implementation still faces several obstacles, including low consumer awareness, weak law enforcement, and limited outreach.<sup>49</sup> Therefore, synergy among the government, law enforcement, business actors, and the public is needed to enhance the effectiveness of criminal sanctions in consumer protection. With appropriate measures, it is hoped that consumers can be better protected from various detrimental business practices.

### Malaysia Consumer Protection Criminal Offences

The primary consumer protection regulation in Malaysia is the Consumer Protection Act 1999 (hereinafter, the CPA).<sup>50</sup> This Act falls under the jurisdiction of the Minister responsible for domestic trade, cooperatives, and consumer affairs.<sup>51</sup> This Act came into force on November 15 1999. Before the enactment of the CPA 1999, no

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<sup>46</sup> Aktieva Tri Tjitrawati, Mohammad Tavip, and Mochamad Kevin Romadhona, "Integrative Social-Health Security For Indonesian Migrant Workers: Does Fully Covered And Protected?," *Malaysian Journal of Medicine and Health Sciences*, 2023., *Malaysian Journal of Medicine and Health Sciences* 19, no. SE12 (2023): 67-78.

<sup>47</sup> R. Yahdi Ramadani et al., "The Rights to Health for All: Is Indonesia Fully Committed to Protected Refugees and Asylum Seekers?," *Jurnal Hubungan Luar Negeri* 8, no. 2 (December 2023): 55-80, <https://doi.org/10.70836/jh.v8i2.11>.

<sup>48</sup> Mochamad Kevin Romadhona, Sri Endah Kinasih, and Rachmat Dimas Oktafenanda, "Labor Migration Policy in ASEAN States," *International Law Discourse in Southeast Asia* 4, no. 1 (July 2025): 81-128, <https://doi.org/10.15294/ildisea.v4i1.23485>.

<sup>49</sup> Eni Sugiarti et al., "Contesting Sovereignty: The State-Indigenous Relations at the Indonesia - Timor-Leste Borderlands," *JAS (Journal of ASEAN Studies)* 12, no. 2 (April 2024): 439-460, <https://doi.org/10.21512/jas.v12i2.11467>.

<sup>50</sup> Habib Ahmed and Ili Rahilah Ibrahim, "Financial Consumer Protection Regime in Malaysia: Assessment of the Legal and Regulatory Framework," *Journal of Consumer Policy* 41, no. 2 (June 2018): 159-175, <https://doi.org/10.1007/s10603-018-9369-0>.

<sup>51</sup> Aktieva Tri Tjitrawati and Mochamad Kevin Romadhona, "Re-Assessing Human Rights Issues in Palu Disaster Management: An International Legal Foundation," *Journal of Southeast Asian Human Rights* 9, no. 1 (June 2025): 81-121, <https://doi.org/10.19184/jseahr.v9i1.46166>.

regulations were providing direct consumer protection. This Act applies to all sales transactions. in Malaysia relating to goods and/or services offered or distributed to one or more consumers in the course of commerce.<sup>52</sup> This also includes transactions conducted electronically, as provided for in the Act and defined in Section 2(1).<sup>53</sup> The CPA covers almost all aspects of consumer protection, including fraud, misleading advertising or images, security of goods and services<sup>54</sup>, unfair contract terms, warranties in the provision of goods and services, and product liability, including enforcement, infringement, legal remedies, compensation, and related matters. The CPA also recognises consumer rights, although they are not explicitly stated<sup>55</sup>. Some of these consumer rights include the Right to Safety, the Right to Information, the Right to Choose, and the Right to Redress.<sup>56</sup> The CPA provides consumer protection in the event of a business's default in electronic transactions.<sup>57</sup> Article 13 of the CPA protects electronic consumers from deceptive advertising techniques.

Another important aspect of protection under the CPA is the guarantee of the quality of goods and services.<sup>58</sup> Section 32 of the CPA states that when goods are sold to consumers, they must meet the warranty of good and acceptable quality. This means that

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<sup>52</sup> Muhammad Gaidy Wiratama, Bambang Sugeng Ariadi Subagyono, and Mochamad Kevin Romadhona, "Implementation of Legal Efforts Consumer Protection and Dispute Settlement of Social-Health Insurance Participants for Indonesian Migrant Workers," *Malaysian Journal of Medicine & Health Sciences* 12, no. SE12 (2023).

<sup>53</sup> Mochamad Kevin Romadhona, Rachmat Dimas Oktafenanda, and Sri Endah Kinasih, "Assessing Corporate Social Responsibility From the Perspective of the Local Community," *ASEAN Journal of Community Engagement* 8, no. 1 (July 2024), <https://doi.org/10.7454/ajce.v8i1.1196>.

<sup>54</sup> Patrick Quirk and John A. Rothchild, "Consumer Protection and the Internet," in *Handbook of Research on International Consumer Law, Second Edition*, ed. Geraint Howells, Iain Ramsay, and Thomas Wilhelmsson (Edward Elgar Publishing, 2018), <https://doi.org/10.4337/9781785368219.00017>.

<sup>55</sup> Paul C. Henry, "How Mainstream Consumers Think about Consumer Rights and Responsibilities," *Journal of Consumer Research* 37, no. 4 (December 2010): 670-687, <https://doi.org/10.1086/653657>.

<sup>56</sup> Aktieva Tri Tjitrawati and Mochamad Kevin Romadhona, "Affliction in the Post Palu Disaster: State Failure to Implement Human Rights Standard on Disaster Management," *Cogent Social Sciences* 9, no. 1 (December 2023): 2233255, <https://doi.org/10.1080/23311886.2023.2233255>.

<sup>57</sup> Erin Ann O'Hara, "Choice of Law for Internet Transactions: The Uneasy Case for Online Consumer Protection," *University of Pennsylvania Law Review* 153, no. 6 (June 2005): 1883, <https://doi.org/10.2307/4150652>.

<sup>58</sup> Mochamad Kevin Romadhona and Rachmat Dimas Oktafenanda, "Bridging the Poverty Gap: Innovative-Based Policy Approaches in East Java," *Jurnal Pembangunan Daerah* 1, no. 2 (October 2025): 21-38, <https://doi.org/10.36762/jpd.v1i2.1177>.

the goods must be fit for their intended use, have a reasonable appearance and finish, be free from minor defects, be safe, and be durable. If the goods have defects disclosed to the consumer before purchase, they are not considered to be in breach of the implied warranty of quality. The CPA also confirms that a good is considered defective if its safety falls short of the consumer's expectations. provides legislative protections for consumers in Malaysia. The theory of consumer legal protection in Malaysia aims to safeguard consumer rights. The Product Liability Theory, specifically designed to protect consumers from defective products, allows consumers to sue manufacturers, importers, or suppliers for damages without having to prove negligence (which was previously difficult to do). Furthermore, Malaysia also upholds the Right to Safety, a principle that prohibits the supply or advertising of goods and services that do not meet safety standards set by the relevant Minister.

### **Criminal Offences of Consumer Protection in the United Kingdom**

The industrial revolution in trade has brought about processes that simplify transactions for businesses and consumers. The internet is utilized to enhance the efficiency and effectiveness of a business entity's operations, particularly as a means of providing information to meet various organizational needs, whether within an institution or another business entity.<sup>59</sup> Therefore, Consumer protection consists of the words "protection" and "consumer." Each of these elements has its own meaning, as expressed by various experts and literary sources. In this discussion, we will examine the definitions of these words one by one.<sup>60</sup> First, we will discuss the word "consumer." The term "consumer" is derived from the word "consumer," and literally means "anyone who uses goods." Similarly, the Great English-Indonesian Dictionary defines a consumer as a user.

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<sup>59</sup> Rachmah Ida et al., "Media-Induced Anxiety and Cultural Coping Mechanisms during COVID-19 in Surabaya," *Interaksi: Jurnal Ilmu Komunikasi* 14, no. 1 (June 2025): 206-221, <https://doi.org/10.14710/interaksi.14.1.206-221>.

<sup>60</sup> Bambang Sugeng Ariadi Subagyono, Zahry Vandawati Chumaida, and Mochamad Kevin Romadhona, "Enforcement of Consumer Rights Through Dispute Settlement Resolution Agency to Improve the Consumer Satisfaction Index In Indonesia," *Yuridika* 37, no. 3 (September 2022): 673-696, <https://doi.org/10.20473/ydk.v37i3.34943>.

There needs to be a legal relationship between consumers and businesses and/or service providers. This legal framework is known as consumer protection law. Consumer protection law regulates not only the consumer's perspective but also the business and/or service provider's perspective, encompassing the respective rights and obligations of both consumers and businesses and/or service providers. In this regard, Consumers should be able to claim compensation for losses incurred by goods and/or service providers. The Consumer Protection Law regulates product liability for claims for compensation against consumers. This liability is characterised by strict liability. Strict liability is a principle of responsibility that is not based on fault/negligence and the contractual relationship (privacy of contract), but rather on the product's defects (objective liability) and the risk or loss suffered by the consumer.

In the UK, as a common law country, strict liability is also recognised, as stipulated in the Consumer Protection Act of 1987<sup>61</sup>. This began when the UK courts introduced a strict liability system through their ruling in the case of *Donoghue (consumer) vs Stevenson (manufacturer)*<sup>62</sup>. Although Donoghue had no contractual relationship with Stevenson, the court held that strict liability within the distribution network constituted product liability under consumer protection law. Strict liability for products means the manufacturer is automatically responsible for losses resulting from product defects, regardless of fault. A product is considered defective if its safety falls short of consumer expectations.<sup>63</sup> In the UK, businesses can still raise defences, including, among other things, that the product was not defective at the time it was marketed, that a mandatory legal requirement caused the product defect, or that the product was not distributed in connection with the business activities of the business or for profit.<sup>64</sup>

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<sup>61</sup> Stephen Weatherill, *EU Consumer Law and Policy* (Edward Elgar Publishing, 2005), <https://doi.org/10.4337/9781845426903>.

<sup>62</sup> Mark Mildred and Malcolm A. Clarke, eds., *Product Liability: Law and Insurance*, 1st ed. (Informa Law from Routledge, 2020), <https://doi.org/10.4324/9781003123095>.

<sup>63</sup> Eleonora Curlo, "Marketing Strategy, Product Safety, and Ethical Factors in Consumer Choice," *Journal of Business Ethics* 21, no. 1 (August 1999): 37-48, <https://doi.org/10.1023/A:1005973306941>.

<sup>64</sup> Dina Sunyowati et al., "Can Big Data Achieve Environmental Justice? (Preliminary Research in the Performance of Indonesian Agricultural Application)," *Indonesian Journal of International Law* 19, no. 3 (2022): 485-508, Scopus, <https://doi.org/10.17304/ijil.vol19.3.6>.

In the United Kingdom (which includes England and Wales), consumer protection offences are regulated by various laws, particularly those relating to unfair trading practices, product safety, and fraud. Violations of these laws can lead to criminal prosecution by authorities such as Trading Standards. Sanctions can vary depending on the severity of the violation, its impact on the victim, and whether the perpetrator demonstrates remorse. This enforcement is intended to protect consumers and ensure a fair trading environment for compliant businesses. The common law influences consumer protection theory in England. In the Jurisprudential Theory, legal protection primarily arises from progressive court decisions.<sup>65</sup> When a citizen is harmed, their legal protection stems from the judge's efforts to provide justice in that case, which then becomes a binding precedent in future cases. Although not explicit in a single document, the idea that citizens have certain rights that must be protected from arbitrary state power underlies much of the development of law in England, as reflected in historical documents such as the Magna Carta.

### **Comparative Analysis of Consumer Protection Criminal Law in Indonesia, Malaysia, and the United Kingdom**

From a consumer protection perspective, the legal tradition of a country in resolving consumer protection disputes appears influential, as the civil law system adheres to the element of fault, whereas common law systems do not require it for unlawful acts. Furthermore, civil law systems are reluctant to resort to litigation, while common law systems are more open and quick to accept non-litigation channels, thus playing a significant role in dispute resolution.<sup>66</sup> The advantage of applying the strict liability concept in countries with a civil law system is that, by proving fault, business actors who have acted in good faith are better protected from unjust claims and the possibility of bad faith by unscrupulous consumers. However, the disadvantage is that consumers whom business

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<sup>65</sup> C. A. Sayu, S. Aprilianto, and M. K. Romadhona, "A Criminological Review of Dextromethorphan Abuse By Adolescents," *Malaysian Journal of Medicine and Health Sciences* 19 (2023): 51-57, Scopus.

<sup>66</sup> Defid Tri Rizky and Mochamad Kevin Romadhona, "Prinsip Pembuktian Perkara Tindak Pidana Pencucian Yang Berdiri Sendiri (Stand Alone Money Laundering)," *Media Iuris* 5, no. 3 (October 2022): 381-400, <https://doi.org/10.20473/mi.v5i3.36098>.

actors have seriously harmed are not protected because business actors attempt to avoid responsibility by proving no fault.<sup>67</sup>

On the other hand, the advantage of applying the strict liability concept in countries with a common law legal system, without the element of fault, is that consumers are better protected because they don't need to go through a lengthy process to file a compensation claim. This is because consumers don't have to wait for proof of fault from the business actor. From the business actor's perspective, they must also improve and promote higher product quality to prevent consumer losses caused by the products they sell. However, the loss lies with the business actor, who is immediately held responsible for any consumer losses resulting from consuming the products they sell, even if the business actor has exercised due care. Indonesia has not yet implemented strict liability because it still requires the Business Actor to provide a reverse proof. This means that the element of fault must first be proven. Unlike countries with common law traditions, such as the UK and Malaysia, strict liability in the US focuses on the risk of causing harm rather than fault. Therefore, this comparison of strict liability concepts across countries is expected to inform the selection of the ideal strict liability concept in Indonesia and to improve legal protection for consumers.

### **Conceptualising Criminal Liability in Consumer Protection through Comparative Jurisprudence and Contemporary Islamic Law**

The rapid development of modern market systems has fundamentally transformed the relationship between consumers and business actors. Advances in technology, globalization of trade, and the rise of digital platforms have created an increasingly complex marketplace in which consumers are exposed to a wide range of products and services from different jurisdictions. While these developments have significantly increased efficiency and accessibility in economic transactions, they have also created new risks for consumers. Fraudulent advertising, unsafe products, deceptive online transactions, and information asymmetry are among the most common challenges consumers face in contemporary markets. Within this context, criminal liability in consumer protection law emerges as an

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<sup>67</sup> Irfan Wahyud et al., "Biosecurity Infectious Diseases of the Returning Indonesian Migrant Workers," *Global Security: Health, Science and Policy* 9, no. 1 (2024): 2358756.

important legal mechanism to deter harmful business practices and ensure accountability. However, understanding how criminal liability should function in consumer protection requires a broader perspective that not only examines national regulatory frameworks but also integrates comparative legal approaches and normative ethical principles.<sup>68</sup>

From a comparative legal perspective, criminal liability in consumer protection law reflects the regulatory priorities and legal traditions of different jurisdictions. In Indonesia, the legal framework for consumer protection is primarily governed by Law No. 8 of 1999 on Consumer Protection (UUPK), which establishes the rights and obligations of consumers and business actors. The law provides criminal sanctions for various violations, including the production or distribution of goods that do not meet safety standards, misleading advertising, and providing false information about products. These criminal sanctions aim to protect consumers from economic harm and ensure compliance with market regulations. However, despite these legal provisions, enforcement in practice often faces significant challenges. Many consumer protection cases are resolved through administrative or civil mechanisms rather than criminal prosecution. This tendency reflects the prevailing legal culture in which criminal law is treated as *ultimum remedium*, meaning it is used only as a last resort after other legal remedies have failed.<sup>69</sup>

A similar yet more institutionally integrated approach can be observed in Malaysia. The Consumer Protection Act 1999 (CPA 1999) establishes a comprehensive framework that combines administrative enforcement with criminal sanctions for certain violations. Malaysia's regulatory model places strong emphasis on institutional mechanisms such as the Consumer Claims Tribunal and the Ministry of Domestic Trade and Consumer Affairs, which actively oversee market practices and handle consumer complaints. Criminal liability under this framework functions as part of a broader enforcement strategy that includes

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<sup>68</sup> Johannes Gunawan, "Kontroversi Strict Liability Dalam Hukum Perlindungan Konsumen," *Veritas et Justitia* 4, no. 2 (December 2018): 274–303, <https://doi.org/10.25123/vej.v4i2.3082>.

<sup>69</sup> Holijah Holijah, "Strict Liability Principle: Consumer Protection from Hidden Defective Products in Indonesia," *Sriwijaya Law Review*, January 31, 2020, 109–123, <https://doi.org/10.28946/slrev.Vol4.Iss2.295.pp109-123>.

regulatory oversight and consumer dispute resolution.<sup>70</sup> By integrating administrative and criminal enforcement, Malaysia has strengthened consumer protection while maintaining efficiency in legal processes. This approach demonstrates how criminal liability can function effectively when supported by institutional structures that facilitate monitoring and enforcement.

Meanwhile, the United Kingdom adopts a regulatory model that emphasises product safety and strict liability for defective products. The Consumer Protection Act 1987, along with subsequent consumer protection regulations, imposes legal responsibility on manufacturers and suppliers for harm caused by defective products, regardless of whether negligence can be proven. This strict liability principle reflects a policy orientation that prioritises consumer safety and public welfare.<sup>71</sup> By shifting responsibility to producers, the law encourages businesses to maintain high standards of product safety and quality. Criminal sanctions are applied in cases where businesses fail to comply with safety regulations, provide misleading price indications, or violate product safety requirements. This regulatory framework illustrates how criminal liability can function as a powerful deterrent mechanism when supported by clear standards and strict enforcement policies.

Although these three jurisdictions adopt different regulatory approaches, they share a common objective: ensuring fairness and accountability in market transactions. Comparative analysis reveals that criminal liability in consumer protection law is not solely a punitive mechanism but also a regulatory instrument designed to maintain market integrity. The effectiveness of criminal sanctions depends not only on the existence of legal provisions but also on the broader institutional and ethical context in which those laws operate. This observation highlights the importance of integrating normative ethical principles into the conceptualisation of consumer protection law.

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<sup>70</sup> Zeti Zuryani Mohd Zakuan and Anida Mahmood, "The Application of the Consumer Protection Act 1999 in Malaysia and Its Challenges," *International Journal Of Law, Government And Communication (IJLGC)* 10, no. 41 (September 2025), <https://doi.org/10.35631/IJLGC.1041035>.

<sup>71</sup> Nadiatul Husna Mohd Amin, Zalina Zakaria, and Mohd Zaidi Daud, "Perlindungan Pengguna Dan Tribunal Tuntutan Pengguna Malaysia: Sorotan Literatur: Consumer Protection According to Islam and Its Assurance Through the Tribunal for Consumer Claims Malaysia: A Review of Literatures," *Journal of Shariah Law Research* 7, no. 1 (June 2022): 63-84, <https://doi.org/10.22452/jslr.vol7no1.4>.

In this regard, contemporary Islamic law offers a valuable normative framework that can complement modern legal systems in promoting ethical market behaviour. Islamic legal thought has long emphasised principles of honesty, fairness, and transparency in commercial transactions.<sup>72</sup> Classical Islamic jurisprudence prohibits practices that harm consumers, including fraud (*gharar*), deception (*tadlīs*), and unjust exploitation (*ẓulm*). These prohibitions are rooted in the broader objectives of *maqāṣid al-sharīʿah*, particularly the protection of wealth (*hifẓ al-māl*) and the promotion of justice in social and economic relations. In Islamic market ethics, business transactions are not merely contractual exchanges but moral activities that must adhere to ethical standards designed to protect both individual rights and collective welfare.

Historical evidence from early Islamic economic institutions demonstrates the practical implementation of these principles. The institution of *ḥisbah*, for example, served as a regulatory authority that monitored market practices and ensured fair trade. Market inspectors (*muḥtasib*) were tasked with preventing fraud, verifying product quality, and ensuring accurate measurement in commercial transactions. These regulatory practices illustrate how Islamic legal tradition has historically integrated ethical norms with institutional mechanisms to maintain market justice. Although modern market systems differ significantly from those of the classical Islamic period, the ethical principles underlying these regulatory practices remain relevant in contemporary consumer protection discourse.<sup>73</sup>

Integrating these normative principles into modern consumer protection law does not require replacing existing legal frameworks but rather enriching them with ethical foundations that strengthen regulatory legitimacy. Contemporary Islamic legal scholarship increasingly emphasises the compatibility between Islamic economic ethics and modern

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<sup>72</sup> Nuril Aulia Munawaroh et al., “Digital Empowerment and E-Commerce Adoption among Handicraft SMEs: A Contemporary Islamic Economic Law Study Using the TOE Framework,” *MILRev: Metro Islamic Law Review* 4, no. 2 (December 2025): 1427-1748, <https://doi.org/10.32332/milrev.v4i2.11731>.

<sup>73</sup> Nina Nurani, Apriwandi Apriwandi, and Hafied Noor Bagja, “Intellectual Property Rights Law Reform Based on Maqāṣid Al-Sharīʿah as a Model for Green Business-Based Creative Industry Protection to Support Sustainable Development,” *De Jure: Jurnal Hukum Dan Syar’iah* 18, no. 1 (February 2026): 1-32, <https://doi.org/10.18860/j-fsh.v18i1.40840>.

regulatory systems. Concepts such as transparency (*bayān*), fairness (*‘adl*), and accountability (*mas’ūliyyah*) align closely with the objectives of modern consumer protection law. When these ethical principles are incorporated into legal discourse, they can reinforce business actors' moral responsibility and enhance public trust in regulatory institutions.<sup>74</sup>

A conceptual framework that bridges comparative jurisprudence and Islamic legal principles can therefore provide a more comprehensive approach to criminal liability in consumer protection law. Comparative analysis demonstrates how different legal systems structure criminal liability through varying regulatory models, ranging from administrative enforcement mechanisms to strict liability regimes. At the same time, Islamic legal thought contributes normative guidance that emphasises ethical conduct in market transactions. The integration of these perspectives allows for the development of a more holistic consumer protection framework that combines legal enforcement with moral accountability.<sup>75</sup>

Such an integrated framework is particularly important in the context of modern digital markets, where regulatory challenges are increasingly complex and transnational. Digital commerce often involves cross-border transactions, decentralised platforms, and rapidly evolving business models that can evade traditional regulatory mechanisms. In this environment, legal enforcement alone may not be sufficient to ensure consumer protection. Ethical norms that promote responsible business conduct can serve as an additional layer of governance, complementing formal legal regulations. By encouraging ethical compliance alongside legal accountability, regulatory systems can more effectively address the risks associated with modern market systems.<sup>76</sup>

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<sup>74</sup> Zulqarnain, "Is Sharia Economic Law Effective? A Critical Study of Indonesia's Islamic Economic Legal Framework," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (October 2025): 761-783, <https://doi.org/10.29240/jhi.v10i2.12952>.

<sup>75</sup> Diana Diana and Gunardi Lie, "The Application of the Strict Liability Principle in the Protection of Consumers of Digital Logistics Services: Penerapan Prinsip Strict Liability Dalam Perlindungan Konsumen Jasa Logistik Digital," *Indonesian Journal of Law and Economics Review* 20, no. 4 (November 2025); <https://doi.org/10.21070/ijler.v20i4.1384>.

<sup>76</sup> Chee Hui Bing, Sivanesvaran Chokkalan, and Sumathi Muthukrishnan, "Advancing Consumer Protection Through Product Liability Under The Consumer Protection ACT 1999," *International Conference On Law And Social Sciences*, August 12, 2024, 1-27.

Ultimately, conceptualizing criminal liability in consumer protection law through a comparative and interdisciplinary perspective enables a deeper understanding of how legal systems can protect consumers in an increasingly complex economic environment. Comparative jurisprudence highlights the diversity of regulatory approaches across jurisdictions, while contemporary Islamic law provides a normative framework that emphasises justice, fairness, and responsibility in market behaviour. When these perspectives are integrated, they offer a more balanced and comprehensive model for strengthening consumer justice in modern market systems. Such an approach not only enhances the effectiveness of legal enforcement but also reinforces the ethical foundations necessary for sustainable and equitable economic development.<sup>77</sup>

Before presenting the analytical comparison, it is important to recognise that the construction of criminal liability in consumer protection law cannot be understood solely through a single legal system. The effectiveness of consumer protection depends on how legal norms, enforcement institutions, and ethical principles interact to regulate market behavior. A comparative legal perspective allows scholars to examine how different jurisdictions structure criminal responsibility for violations of consumer rights, while also revealing the underlying regulatory philosophies that guide these legal systems. At the same time, incorporating the normative framework of contemporary Islamic law provides an additional ethical dimension that emphasises fairness, transparency, and accountability in economic transactions.<sup>78</sup> By integrating these perspectives, a more comprehensive conceptual framework can be developed to understand how criminal liability contributes to strengthening consumer justice in modern market systems. To illustrate these differences and conceptual linkages, the following table presents an analytical framework comparing the structure of criminal liability in consumer protection across three legal systems—

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<sup>77</sup> Deviana Yunitasari, Hazar Kusmayanti, and Agus Suwandono, "A Comparison Study of Strict Liability Principles Implementation for the Product Liability within Indonesian Consumer Protection Law between Indonesia and United States of America Law," *Cogent Social Sciences* 9, no. 2 (December 2023): 2246748, <https://doi.org/10.1080/23311886.2023.2246748>.

<sup>78</sup> Christopher Newdick, "The Development Risk Defence of the Consumer Protection Act 1987," *The Cambridge Law Journal* 47, no. 3 (November 1988): 455-476, <https://doi.org/10.1017/S0008197300120458>.

Indonesia, Malaysia, and the United Kingdom—while also incorporating the normative principles of contemporary Islamic law.

Table 1. Analytical Framework for Criminal Liability in Consumer Protection: A Comparative and Islamic Legal Perspective

Analytical Dimension	Indonesia	Malaysia	United Kingdom	Contemporary Islamic Law
Primary Legal Sources	Law No. 8 of 1999 on Consumer Protection (UUPK), Law No. 7 of 2014 on Trade, and Law No. 19 of 2016 on Electronic Information and Transactions	Consumer Protection Act 1999 (CPA 1999) and related consumer regulations	Consumer Protection Act 1987 and subsequent product safety and consumer regulations	Derived from <i>fiqh mu'āmalāt</i> , Qur'anic principles of market ethics, and the objectives of <i>maqāṣid al-sharī'ah</i>
Concept of Criminal Liability	Criminal sanctions exist but are frequently applied as ultimum remedium, with greater reliance on civil or administrative mechanisms.	Combines administrative enforcement with criminal sanctions for specific consumer protection violations	Applies strict liability, particularly in cases involving defective or unsafe products	Ethical and legal responsibility rooted in the prohibition of <i>gharar</i> (uncertainty), <i>tadlīs</i> (deception), and <i>ẓulm</i> (injustice)
Regulatory Orientation	Focus on balancing consumer rights and business obligations within national regulatory frameworks.	Institutional and regulatory approach emphasising monitoring, dispute resolution, and enforcement	Public safety-oriented regulation prioritising product safety and producer accountability	Normative ethical governance emphasises fairness, transparency, and justice in economic transactions.
Enforcement Institutions	Consumer dispute settlement bodies, regulatory agencies, and criminal courts	Ministry of Domestic Trade and Consumer Affairs and the Consumer Claims Tribunal	Market surveillance authorities and regulatory agencies are overseeing compliance with product safety requirements.	Historically implemented through the <i>ḥisbah</i> institution and market supervision by the <i>muḥtasib</i>

Liability Structure	Predominantly fault-based liability with limited reversal of the burden of proof in certain cases	Mixed liability structure combining regulatory supervision and legal accountability	Strict liability for producers and manufacturers for defective products	Moral accountability ( <i>mas'ūliyyah</i> ) requires honesty, transparency, and avoidance of harm
Consumer Protection Objective	Protection of consumer rights and prevention of unfair business practices	Strengthening consumer trust through effective institutional enforcement	Ensuring product safety, accountability, and market integrity	Protection of wealth ( <i>hifz al-māl</i> ) and promotion of socio-economic justice
Role of Criminal Sanctions	Deterrence against fraudulent business practices and serious consumer harm	Enforcement mechanism supporting regulatory oversight and consumer dispute resolution	Strong deterrent against violations of product safety and consumer protection standards	Ethical deterrence based on moral responsibility and the prohibition of unjust enrichment
Contribution to Consumer Justice	Provides statutory protection but faces enforcement challenges in digital markets	Demonstrates the effectiveness of integrated institutional enforcement	Offers a strong regulatory model through strict liability and safety-based regulation	Provides ethical foundations that strengthen legal compliance and responsible market behaviour

Source: Author's interpretation

Table 1 presents an analytical framework for understanding criminal liability in consumer protection law from a comparative perspective while incorporating normative principles from contemporary Islamic law. The table demonstrates that different legal systems adopt varying approaches in structuring criminal responsibility for violations of consumer rights. Indonesia emphasizes statutory protection but often imposes criminal sanctions as a last resort, whereas Malaysia integrates criminal enforcement with robust institutional mechanisms for consumer dispute resolution. The United Kingdom adopts a strict liability regime that places significant responsibility on producers and manufacturers to ensure product safety.

In contrast, contemporary Islamic legal thought approaches consumer protection from a normative and ethical perspective rooted in the principles of justice, transparency, and accountability in economic transactions. These principles are aligned with the broader

objectives of *maqāṣid al-sharī'ah*, particularly the protection of wealth and the prevention of harm in market activities. By bridging these different legal traditions, the framework highlights how criminal liability can function not only as a punitive mechanism but also as part of a broader ethical and regulatory system designed to strengthen consumer justice in modern market systems.

## CONCLUSION

The findings of this study demonstrate that criminal liability in consumer protection law is shaped by the legal traditions, regulatory priorities, and institutional frameworks adopted by different jurisdictions. Indonesia, operating within a civil law tradition, relies on comprehensive statutory regulation through Law No. 8 of 1999 on Consumer Protection, which explicitly defines consumer rights, business obligations, and criminal sanctions for violations. This codified framework aims to provide legal certainty and a clear normative basis for protecting consumers. In contrast, Malaysia and the United Kingdom illustrate a more flexible regulatory orientation that combines statutory provisions with institutional enforcement and sector-specific regulations. Malaysia's Consumer Protection Act 1999 integrates administrative supervision, consumer dispute mechanisms, and criminal sanctions within a coordinated institutional structure. Meanwhile, the United Kingdom emphasizes product safety and strict liability, placing strong responsibility on producers and suppliers to ensure compliance with safety standards. Despite these structural differences, all three systems share a common objective of maintaining market integrity and safeguarding consumer rights. When viewed through the lens of contemporary Islamic legal thought, these regulatory models resonate with broader ethical principles of fairness, transparency, and accountability embedded in Islamic commercial jurisprudence. The prohibition of deception, exploitation, and uncertainty in transactions reflects normative commitments aligned with the objectives of *maqāṣid al-sharī'ah*, particularly the protection of wealth and the promotion of justice in economic relations. In this sense, bridging comparative legal traditions with Islamic ethical principles offers a more holistic framework for conceptualising criminal liability in consumer protection within modern market systems.

Building on these findings, future research should further explore interdisciplinary approaches that integrate comparative legal analysis, economic regulation, and Islamic legal philosophy in addressing emerging challenges in consumer protection. In particular, the rapid expansion of digital marketplaces, cross-border e-commerce, and platform-based economies raises new regulatory questions regarding jurisdiction, accountability, and enforcement of criminal sanctions. Subsequent studies could examine how hybrid regulatory models—combining statutory law, institutional enforcement, and ethical governance inspired by Islamic commercial principles—can strengthen consumer justice in the digital economy. In addition, empirical research focusing on law enforcement practices, judicial interpretation, and consumer awareness across different jurisdictions would provide deeper insights into how criminal liability mechanisms function in practice. Such research would contribute to the development of a more responsive and ethically grounded consumer protection framework capable of addressing the complexities of contemporary global markets.

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#### **AUTHOR CONTRIBUTIONS STATEMENT**

Bambang Suheryadi contributed to the conceptualisation of the study, conducted the primary investigation, and prepared the original draft of the manuscript. Hariyanto was responsible for developing the research methodology, managing data curation, and performing the formal analysis. Bambang Sugeng Ariadi Subagyono provided academic supervision, ensured validation of the research framework, and contributed to the manuscript review and editing. Agus Yudha Hernoko contributed to the development of the theoretical framework, conducted in-depth legal analysis, and participated in the review

and refinement of the manuscript. HD. Djunaedi supported the research by overseeing project administration, resource management, and the final approval of the manuscript before submission. All authors have read and approved the final version of the manuscript.

### CONFLICT OF INTEREST

The authors declare that there are no financial, personal, or professional relationships that could be construed as a potential conflict of interest in relation to this research, authorship, or publication of this article. The study was conducted independently without any commercial or financial influence that could affect the objectivity, integrity, or interpretation of the research findings. All analyses and conclusions presented in this paper are solely based on academic considerations and the authors' scholarly responsibility to contribute to the development of consumer protection law and comparative legal studies.

### AI USAGE STATEMENT

The authors declare that artificial intelligence (AI) tools were used solely to assist with language refinement, grammar checking, and improving the clarity of expression during manuscript preparation. All substantive ideas, legal analyses, interpretations, and conclusions presented in this paper are the original work of the authors. The authors take full responsibility for the content and integrity of the manuscript.

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