

# Legal Review of Dangerous Skincare Users in the Perspective of Islamic Law and Consumer Protection Law

Rahmadi Indra Tektona<sup>1\*</sup>, Ayu Citra Santyaningtyas<sup>2</sup>, Emi Zulaikha<sup>3</sup>

<sup>123</sup>Faculty of Law Universitas Jember

Email: [rahmadiindra@unej.ac.id](mailto:rahmadiindra@unej.ac.id)

\*Corresponding author

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**Abstract :** *Skin beauty is a primary need for women, and it caused the cosmetic market to increase significantly for domestic and foreign brands throughout the year. There has been abuse by irresponsible entrepreneurs by selling and producing skin care products that do not meet Indonesian Food and Drug Authority (BPOM) requirements. The focus of this review is to find out how the legal review of dangerous skincare users in the perspective of Islamic law and consumer protection act (Law of the Republic of Indonesia Number 8 Year 1999 concerning Consumer Protection). The research method used in this study is normative juridical research with statutory and conceptual approach. The results of the study show that Islam provides more protection for women and there are internal and external legal protections in Indonesia for skincare users.*

**Keywords :** *Legal review, skincare, Islamic law*

**Abstrak :** Kecantikan kulit merupakan kebutuhan primer wanita, akibatnya pasar kosmetik naik signifikan sepanjang tahun pada merek dalam dan luar negeri. Terjadi penyalahgunaan pelaku usaha yang tidak bertanggung jawab dengan memperdagangkan serta memproduksi produk perawatan kulit yang tidak memenuhi syarat BPOM (Badan Pengawas Obat dan Makanan). Penelitian ini bertujuan untuk mengetahui bagaimana Tinjauan Hukum Konsumen Skincare yang Mengandung Bahan Berbahaya Dalam Perspektif Hukum Islam dan Undang-Undang No. 8 Tahun 1999 tentang Perlindungan Konsumen. Metode penelitian yang digunakan dalam penelitian ini adalah tipe penelitian yuridis normative dengan menggunakan pendekatan Perundang-undangan dan Pendekatan Konseptual. Hasil penelitian menunjukkan bahwa Islam memberikan perlindungan lebih bagi wanita dan di Indonesia terdapat perlindungan hukum internal dan perlindungan hukum eksternal.

**Kata kunci :** Tinjauan hukum, skincare, hukum Islam



## I. INTRODUCTION

Islam is a religion that regulates all forms of life, such as the relationship between humans and their creator (worship), the relationship between humans and others, and the relationship between humans and the universe. It is intended that Islam can protect human life. For Muslims, consuming halal goods/products and services is an absolute necessity because it is an order in Islam. It is not only recommended but an obligation which must be obeyed.<sup>1</sup>

Women are creatures that must be protected and they are born with their own beauty. Islam as a religion of *rahmatan lil' alamin* gives full attention to the beauty of women. In *asmaul husna*, beauty is also called *Al Jamil*. Most women do various ways to always look beautiful, and one of them is wearing makeup<sup>2</sup>. In the context of beauty and the permissibility of using makeup, Allah says in surah Al-A'raf verse 32, "Say, "Who has forbidden the adornment of Allah which He has produced for His servants and the good (lawful) things of provision?". Women always want to look more perfect because beauty is an exchange system like the gold standard<sup>3</sup>. It gave rise to many stereotypes about beautiful women, such as a beautiful woman must have a sharp nose, straight black hair, slim, and fair skin. It causes women make various efforts to be beautiful as they expect<sup>4</sup>. So that skin care plays an important role for women, resulting in a significant increase in market growth throughout the year for both domestic and foreign brands<sup>5</sup>. Cosmetics are synonymous with beautiful, clean, and well-cared. This product is used daily by all age groups from babies to the elderly, both men and women<sup>6</sup>.

Lately, one part of cosmetic products, that is fake skincare, has become increasingly popular. Even though the dangers posed are very clear, in fact there are still many users who are still loyal to using fake skincare. This is due to the claims of instant brightening and whitening given by the product<sup>7</sup>. Recently, a woman had a serious skin condition after using fake hand and body lotion products that claimed to whiten quickly. The main target for entrepreneurs is women who want to get quick and easy results, so they are tricked into buying skin care products at low prices. The way entrepreneurs sell their products is by saying their products have been registered by Indonesian Food and Drug Authority (BPOM), even though from a packaging standpoint it looks unconvincing. The

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<sup>1</sup> Reny Supryatni, "Eksistensi dan Tanggung jawab Majelis Ulama Indonesia dalam Penetapan Sertifikasi Halal dan Labelisasi Halal Produk Pangan di Indonesia", *Jurnal Ilmu Ekonomi Syariah*, Vol. III, No. 2, Juli 2011: 332. Also see, Bahrul, "Halal Pelindung Akidah Umat", (<http://www.pkesinteraktif.com/lifestyle/halal/111-halal-pelindung-akidah-umat.html>), accessed on 17 September 2021.

<sup>2</sup> Ellitte Millenitta Umbarani and Agus Fakhruddin, "Konsep Mempercantik Diri Dalam Perspektif Islam Dan Sains" 23, No. 1 (2021): 115–125.

<sup>3</sup> Ghela Rakhma Islamey, "Wacana Standar Kecantikan Perempuan Indonesia pada Sampul Majalah Femina", *Jurnal Publikasi Ilmu Komunikasi Media Dan Cinema* Vol 2, No. 2 (Maret 2020), 112.

<sup>4</sup> Chozinatul Rohmah & Muhammad Habib Zainul Huda, "Representasi Supremasi Kulit Putih Bagi Perempuan Dalam Produk Iklan Sebagai Standar Kecantikan", *Jurnal Kecantikan* Vol. 4, No. 1, 2020: 56.

<sup>5</sup> Statista, "Skincare Market in Indonesia," <https://www.statista.com/outlook/70020000/120/skincare/indonesia#market-globalRevenue>. Accessed on 15 Oktober 2021.

<sup>6</sup> BPOM, *Daya Tarik Penggunaan Kosmetik* (Jakarta, 2014), [https://www.pom.go.id/files/2017/4\\_DayaTarik.pdf](https://www.pom.go.id/files/2017/4_DayaTarik.pdf).

<sup>7</sup> <https://www.suara.com/partner/content/kepo/2021/11/12/165556/korban-hand-body-lotion-abal-abal-kulit-wanita-ini-jadi-gosong> Accessed on 25 Desember 2022

characteristics of creams or skincare that have been registered by BPOM, in addition to having a registration number, also include their brand, how to use it, expiration date, and a full review of the ingredients contained therein. HN (Hetty Nugrahati) Cream is the best-selling cream that has sold more than 4,000 packages in e-commerce applications, consisting of night cream, morning cream, toner, and facial soap.

HN cream claims to be able to make the face healthy, well-cared, bright white, and overcome acne problems such as acne scars and pockmarks. The price for one package of HN cream is quite affordable, it is only Rp. 95,000. By including testimonials from customers whose skin becomes clean white and glowing like expensive doctor care after a few weeks, many consumers are tempted to buy this product because they want to get maximum results at a low price and in a relatively short time without knowing what ingredients are in it. In the BPOM press (2020) it was explained that this HN brand cream in December 2020 became one of the products that BPOM confiscated<sup>8</sup>. The reason for the confiscation of these cosmetics was because HN did not have a distribution permit for their night cream and morning cream, and also their cream contained 4.2% mercury, while the mercury content allowed for use was only 0.007% based on BPOM Chairman Regulation Number 18 of 2015 concerning Technical Requirements Cosmetic Ingredients. Husniah Rubina Thamrin Akib from BPOM explained that mercury is a dangerous material because it is a naturally occurring heavy metal. No matter how small the mercury that enters the body, mercury is still poison. The use of mercury in the skin has side effects on stunting of the fetus, kidneys, brain, nerves, permanent damage to the structure of the skin, irritation, darkening, and discoloration. The long-term effects of mercury can cause kidney damage which can lead to cancer.

The mercury content in creams generally gives fast results, in one or two weeks the pores will shrink, the skin will look smooth, acne will disappear, and the skin will look white. However, over time the skin darkens and more severe acne can develop. In addition, long-term use of mercury can cause skin, breast, cervical, lung and other cancers. The side effects of using creams containing mercury do not appear immediately, but usually these side effects will appear within 2 to 10 years. What's worse is that once mercury enters the body, it is almost impossible or very difficult to get rid of it. Meanwhile, hydroquinone is a chemical that can whiten and brighten the skin. Usually, this content is in beauty treatment products or creams that beauty doctors use to treat spots on the face.

In 2021 the HN Cream product is booming again with testimonials scattered on social media. The actors of the business sell this cream with the same claims as before. They also changed the name of this cream to the name 'Cream HN Ori' which means original and said that it was officially registered by BPOM. In fact, based on Article 4 of the Consumer Protection Act, one of the consumer rights is the right to comfort, security and safety in consuming goods or services. In addition, it is the responsibility of entrepreneurs to provide honest, clear, and correct information regarding the guarantee and condition of the goods. Indonesia is a state of law which requires all parties to act

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<sup>8</sup> Elisa. "Amankah Penggunaan Krim Pemutih HN untuk Wajah?", <https://gayasehatku.com/amankah-penggunaan-krim-pemutih-hn-untuk-wajah/>. Accessed on 26 November 2021.

based on existing law without exception to the parties in the skincare business. Entrepreneurial behavior in the manufacture or trade of skincare which contains dangerous ingredients (pharmaceuticals) can be detrimental to consumers and can be considered as violating entrepreneurial obligations under the Consumer Protection Act.

In the Encyclopedia of Islamic Law, it is explained that halal is anything that causes a person not to be reprimanded if he uses it or something that is permissible according to the Shari'a<sup>9</sup>. Islam considers beauty to be based on skills, intelligence, and devotion to the rules of Allah SWT. In the view of Islam every woman has her own beauty and uniqueness, not just looking at the beauty of the body (physical). As a Muslim, even though Islam allows makeup, in using cosmetics, women must be able to ensure that the cosmetics they are going to use must be healthy and not harm their skin or body. Therefore, it is very important to know the harmful ingredients in cosmetics. In the Consumer Protection Act, it aims to promote healthy businesses and provide high quality products and services.<sup>10</sup> From a consumer protection point of view, it is hoped that skincare entrepreneurs will protect consumers more from violations, bearing in mind that skincare containing dangerous ingredients is increasing every year and is being sold to the public. Based on the background of this problem, this article takes the title “*Legal Review of Dangerous Skincare Users in the Perspective of Islamic Law and Consumer Protection Law*”, from this title the author makes a formulation of the problem, it is how the legal review of dangerous skincare users in the perspective of Islamic law and consumer protection law, with the aim to understand about legal review of dangerous skincare users in the perspective of Islamic law and consumer protection law.

## II. METHODS

This type of research is normative legal research with the aim to analyse how the legal review of Dangerous Skincare Users in the Perspective of Islamic Law and Consumer Protection Act. Normative research is often referred to as doctrinal research. It's a research whose object of study is documents of laws and regulations and library materials. Based on the type of research, the approach to be used in this research is a normative approach and a statutory approach. Legal materials consist of primary legal materials including the *Al-Qur'an*, hadith, and regulations related to legal review of dangerous skincare users in the perspective of Islamic law and consumer protection law. Secondary legal materials include data or publication of theses, dissertations, texts, legal research reports, legal journals relating to legal review of dangerous skincare users in the perspective of Islamic law and consumer protection law. Non-legal materials are all information relating to legal issues outside of primary and secondary legal materials, such as books about skincare, facial care, health, social, philosophy, Indonesian dictionary (Kamus Besar Bahasa Indonesia), official government websites, bibliographies, interviews, or non-legal research that still has relevance to the topics and legal issues that

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<sup>9</sup> Abdul Azis Dahlan, et.al, 1996, “Ensiklopedia Hukum Islam”, Ikhtiar Baru van Hoeve, Jakarta, 505-506. Also see, Fitriah Setia Rini, 2020, “Bahan Halal dan Proses Produk Halal”, Kemenag R.I, Jakarta, 3-4.

<sup>10</sup> Gunawan Widjaja dan Ahmad Yani, “Hukum Perlindungan Konsumen”, (Jakarta: PT.Gramedia Pustaka Utama, 2000), 12.

the author takes for further analysis and conclusions.

### III. RESULT AND DISCUSSION

Beauty equipment advertisements try to attract attention from consumers, resulting in excessive promotion. This makes the information provided unclear. Another thing that is often encountered is the benefits and uses of a product contained in advertisements that are displayed that do not match the reality. Islam encourages Muslim women to use cosmetics that contain ingredients that will not harm their bodies and are not excessive, and do not change the creation of Allah SWT. Islam provides limitations in matters of self-make-up, these limits are implied in the surah Al-Azhab verse 33, “Settle in your homes, and do not display yourselves as women did in the days of pre-Islamic ignorance. Establish prayer, give zakah, and obey Allah and His Messenger. Allah only intends to keep ‘the causes of evil’ away from you and purify you completely, O members of the Prophet’s Family”. Beautifying oneself for good purposes is not something that is prohibited in Islam, in fact it is natural for humans, especially for women. Mentioned in the history of Muslims that the prophet Muhammad SAW said, “From Abdullah bin Mas’ud from the Prophet *sallabu ‘alaihi wasallam*, he took a vacation, “He will not enter heaven in whose heart there is arrogance even as big as dust,” then someone said, “Indeed someone likes it when his clothes are beautiful and his sandals are nice,” so he longed, “Indeed Allah is beautiful and loves beauty. Arrogance is rejecting the truth and limiting people.” (HR. Muslim). This hadith states that it is not forbidden to dress up with clothes, shoes, bags or other accessories, because Allah loves beauty. In the General Warning Number KH.00.01.3352 issued by BPOM and the halal journal LPPOM MUI has explained some dangerous cosmetic ingredients, namely as follows:<sup>11</sup>

1. Mercury (Hg) is a dangerous heavy metal, which in the slightest concentration can be toxic.
2. Hydroquinone belongs to a class of hard drugs that can only be used based on a doctor's prescription. The dangers of using this strong drug without a doctor's supervision can cause skin irritation, the skin becomes red and feels burned, it can also cause abnormalities in the kidneys (*nephropathy*), blood cancer (*leukemia*) and cancer of the liver cells (*hepatocellular adenoma*).
3. K.10 red (Rhodamine B) and K.3 red (CI pigment red 53) dyes. These are synthetic dyes which are generally used as paper, textile, or ink dyes. This dye can cause irritation to the respiratory tract and is a carcinogenic substance (can cause cancer), and rhodamine when in high concentrations can cause damage to the liver. (BPOM, 2006).
4. Sodium Lauryl Sulfate (SLS). This substance is usually found in soap, a mixture of shampoo, toothpaste, and body cleansers. SLS contains formaldehyde which can trigger allergies, asthma, headaches, depression, dizziness, and joint pain. SLS can cause severe skin irritation and cause cataracts and impair eye health.

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<sup>11</sup> Umbarani and Fakhruddin, “Konsep Mempercantik Diri Dalam Prespektif Islam Dan Sains.”

5. Paraben preservatives. Parabens are used mainly in cosmetics, deodorants, and several other skin care products. These substances can cause redness and other reactions on the skin. Recent research in England states that there is a relationship between the use of parabens and an increased incidence of breast cancer in women.
6. Propylene glycol, this substance is found in beauty products and facial cleansers. This substance can cause redness of the skin, and this substance can also damage the kidneys and liver.
7. Isopropyl alcohol where used as a solvent in some skin care products. This substance can cause skin irritation and damage the skin's acid layer so that bacteria can thrive.
8. DEA (*diethanolamine*), TEA (*triethanolamine*) and MEA (*monoethanolamine*), these dangerous ingredients are usually found in many skin care cosmetics. This dangerous material may cause an allergic reaction.
9. Mineral oil, this substance is usually made from petroleum derivatives. Usually this oil is used as a cosmetic base. This oil will coat the skin like a coat so that the removal of toxins from the skin becomes disturbed. This will cause pimples.
10. Polyethylene Glycol (PEG). This material is used to thicken cosmetic products. PEG will interfere with the skin's natural moisture, causing premature aging and the skin becomes susceptible to bacteria.

When there are substances that are prohibited as previously explained in skincare products, it can be said that these products are prohibited (*haram*) for use in accordance with the appeal of the Indonesian Ulema Council (MUI). MUI is a forum for associations of Muslim ulema and scholars who have the responsibility to foster Muslims and increase Islamic understanding and guidance for the life of Islamic diversity. MUI has carried out a *tarbiyah* orientation that is responsive in dealing with issues of public anxiety about skincare containing dangerous ingredients. To protect the interests of the parties in trade, Islamic law stipulates several principles that serve as guidelines in conducting transactions, namely *at-tauhid*. From this principle then gave birth to the first principle of, *al-ihسان*. It means carrying out good deeds that can benefit other people without any specific obligations that require them to carry out these actions. Furthermore, there is *al-amanah* which places every business actor as a bearer of trust for the future of the world (*kbolifah fi al-ardhi*), therefore whatever he does will be accountable before humans and before the creator (Allah SWT). Then, there is *ash-shiddiq* which means honest behavior. Next principle is *al-adl* which means justice, balance, and equality which describes the horizontal dimension and relates to the harmonization of everything in this universe. Next *al-kehiyar*, the right to choose in business transactions. Islamic law stipulates this principle to prevent disputes between entrepreneurs and consumers. Then *at-ta'awun* which means to help each other. *Ta'awun* has a very important meaning in this life because there is no human being who does not need help from other people, so mutual help between fellow human beings is a necessity, especially in an effort to increase kindness and piety to Allah SWT. For this reason, in relation to transactions between consumers and manufacturer, this principle must be imbued by both parties. And the last is *at-taradhin* (willingness). One of the legal

conditions for buying and selling in Islam is an *aqad* or transaction that will never occur except by *shighat* (*ijab-qabul*), which is anything that shows the willingness or agreement of both parties (seller and buyer).

In Islamic history there are also practices in doing business that were prohibited by the Prophet when he ruled Medina, as explained below<sup>12</sup>:

1. *Talaqqi rukban*, the intention is to intercept traders who buy goods from production sites before they reach the market. Rasulullah SAW said, “*Don't intercept traders in the middle of the road. The owner of the goods has the right to choose after arriving at the market, whether he sells to those who intercept him or to people who are in the market.*” (Muttafakun alaih).
2. Double the price. According to Imam Ghazali, it is forbidden to double the price of the prevailing customs.
3. *Bai'al-gharar*, a business that contains an element of fraud because there is no certainty.
4. *Gisyah*, hide defects in goods sold, you can also mix defective products into good quality products.
5. *Najasy business*, a business practice in which a person pretends to be a buyer who bids with high bids accompanied by unreasonable quality praise with the aim of increasing the price of goods.
6. Haram products, the meaning is trading goods that have been prohibited and forbidden by the *Al-Qur'an* and *As-Sunnah*.
7. *Riba*, additional taking in business transactions.
8. *Tathfif*, reduce the scale or measure of goods to be sold.

When the ingredients of a skincare product do not match the ingredients listed in the product composition (fraud), in trade it is categorized as a prohibited activity namely *gisyah* or hiding defects in goods sold by mixing dangerous ingredients into good quality products, so consumers have difficulty knowing precisely the quality of goods sold. This is also in accordance with the Consumer Protection Act Article 8 paragraph (2) “Entrepreneurs are prohibited from trading damaged, defective or used and tainted goods without providing complete and correct information”. If it is harmful to the human body, then it is also included in the category of items that are prohibited and forbidden in the *Al-Qur'an* and *As-Sunnah*, so it is not permissible for Muslim women to use it. This is because Muslim women are obliged to prevent calamities and misfortunes, and seek various ways to prevent risks from occurring, including by helping, bearing, and protecting each other<sup>13</sup>. In Islam, there are part of the shari'ah called *maqasid shari'ah* which consists of two words, *maqasid* means goals and *shari'ah* means the laws of Allah. *Maqashid*

<sup>12</sup> Nurhalis, “Perlindungan Konsumen Dalam Perspektif Hukum Islam Dan Undang-Undang Nomor 8 Tahun 1999,” *Ius Kajian Hukum Dan Keadilan*, No. 8 (2015): 525–542.

<sup>13</sup> Muhammad Syakir Sula, *Asuransi Syariah (Life and General): Konsep Dan Sistem Operasional* (Gema Insani Press 2004), xviii.

*shari'ah* definitely means the laws of Allah SWT which are determined for humans to be used as a guide to achieve happiness in life in this world and in the hereafter.

According to Imam As-Syathibi, Allah sent down *shari'at* (rules of law) for welfare and to avoid harm, and the rules of law that Allah limited were only for the benefit of man himself. There are five *maqasid syari'ah*, protecting religion (*al-din*), protecting reason (*al-aql*), protecting family (*al-ird*), protecting property (*al-mal*), and protecting life (*al-nafs*). *Al nafs* can also mean guarding the soul or protecting the lives of others. In Islam, human life is something that is very valuable and must be guarded and protected. A Muslim is prohibited from killing others or himself<sup>14</sup>. Islamic law is broader and comprehensive in which it not only regulates horizontal relations between entrepreneurs and consumers or entrepreneurs and other entrepreneurs (*hablum minannas*), but also regulates vertical human relations (*hablum minallah*), relations between humans (entrepreneurs and consumers) with Allah SWT. Entrepreneurs should maintain a relationship with Allah SWT by trying to maintain their self-respect, such as maintaining self-purity by seeking life in a lawful way, avoiding prohibited (*haram*) actions, such as cheating and other actions that harm other people.

In Islam there is a value of justice recommended by Rasulullah SAW, it's fulfilling the measure and scales fairly. When Rasulullah SAW coming to Medina, the Prophet found businessmen who were cheating in measure and scale so that threats came down from Allah SWT for those who cheat as stated in QS.al-Mutaffifin (83) verses 1-6 which reads, "*Woe to those who give less (than due), who, when they take a measure from people, take in full. But if they give by measure or by weight to them, they cause loss. Do they not think that they will be resurrected for a tremendous Day, the Day when mankind will stand before the Lord of the worlds?*" and QS.al-An'am (6) verse 152, "*And do not approach the orphan's property except in a way that is best until he reaches maturity. And give full measure and weight in justice. We do not charge any soul except (with that within) its capacity*". What is meant by these two verses is about the promise of Allah SWT so that all humans obey all of His rules. For example, in all economic or business dealings, the seller is prohibited from acting fraudulently in a scale that harms others, let alone acting unfairly and dishonestly towards others, including not being transparent in terms of product quality in trade. The most basic fair requirements are in determining the quality and quantity at each measure or scale. And if you say that in legal or other matters, you should act fairly and fulfill God's promise which always orders to do justice to everyone and at all times and circumstances, justice must still be upheld. Entrepreneurs place more emphasis on the value of profits. A Muslim should be aware that in all transaction activities he should prioritize fairness and honesty in order to gain both worldly and spiritual dimensions. Because in principle the nature of the Islamic economic system is an effort to obtain halal sustenance.

On the other hand, consumers do not get enough information about the products they use. It takes the role of the awareness of the parties to the existence of Islamic law and consumer protection law to create a sense of security for consumers in accordance with the principles of security and safety. This principle provides a legal guarantee that consumers will obtain guarantees for the security and safety of consumers in the use,

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<sup>14</sup> Ahmad Munif Suratmaputra, *Filsafat Hukum Islam Al-Ghazali*, (Pustaka Firdaus 2002), 70.



consumption and use of the goods and/or services consumed or used.<sup>15</sup> Consumers have the right to receive benefits that are not detrimental and get the goods as promised. In Islam, physical harm or harm suffered by consumers due to product defects or fraud is an act that is not justified; therefore, the business actor/manufacturer must be held responsible for his actions. The responsibility of business actors causes compensation (*dhaman*). *Dhaman Itlaf* is compensation resulting from damaged goods. *Itlaf* compensation is not only related to damaged goods, but also concerns the soul and body, related to victims of skincare that contains dangerous ingredients. This is in accordance with *dhaman aqdin*, the occurrence of an *aqad* or transaction as a cause for compensation or responsibility. Compensation for *wadh'u yadin* is compensation resulting from damage to goods that are still in the hands of the seller if the goods have not been submitted in a valid contract and compensation for taking other people's property without permission. It can also be done with *Dhaman al-maghrur*, compensation due to deceit. *Dhaman al-maghrur* is very effectively applied in dangerous skin care cases in consumer protection because all forms of actions that can harm other people, the perpetrator must pay compensation as a result of his actions.

Consumer protection is needed so that there are no doubts and fears from consumers in making purchase transactions because the quality is guaranteed. If consumers have doubts about consuming a product because they feel insecure, it will hamper the economic cycle.<sup>16</sup> In the life of the nation and state, consumer protection can be carried out in various forms. The most important form of protection for consumers is the protection provided by law, because law has coercive power so that it is permanent because of its constitutional nature which is recognized and enforced in social life. Legal protection can be interpreted as protection by law or protection by using legal institutions and means. Protection for consumers in Indonesia has been regulated in Law Number 8 of 1999 concerning Consumer Protection (Consumer Protection Act). Article 1 point 1 of Consumer Protection Act states consumer protection is all efforts that guarantee legal certainty to provide protection to consumers. The purpose of consumer protection is contained in Article 3 Consumer Protection Act:

1. Increasing consumer awareness and ability to protect themselves;
2. Raise the dignity of consumers by avoiding the negative excesses of product use;
3. Improving consumer empowerment in selecting, determining, and demanding their rights as consumers;
4. Creating a legal protection system that has legal certainty and information order and access to obtain information on a product;

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<sup>15</sup> Denico Doly, "Upaya Penguatan Perlindungan Konsumen di Indonesia Terkait Dengan Klausula Baku, Jurnal Negara Hukum" Vol. 3, No. 1, Juni 2012: 46.

<sup>16</sup> I Gede Tirtayasa, "Perlindungan Konsumen Terhadap Kosmetik yang Mengandung Zar Berbahaya di Kota Denpasar", *Jurnal Konstruksi Hukum*, Vol. 3, No. 1, Januari 2022: 3.

5. Growing awareness of business actors regarding the importance of consumer protection so that honest and responsible attitude grows in conducting their business;
6. Improving product quality in ensuring the continuity of the production business for the health, convenience, security and safety of consumers.

In Article 4 of the Halal Product Guarantee Act which reads "Products that enter, circulate, and trade in the territory of Indonesia must be halal certified." Thus, the article contains the necessity of having halal information in a product that is traded. What is meant by products in the Halal Product Guarantee Act goods and/or services which include food, beverages, cosmetics, medicines, chemical products, biological products, genetically engineered products, as well as goods used or used by the public. While what is meant by halal is a product that has been declared halal by an authorized institution. Products circulating in the market must have clear information. If the product is halal, then the product owner must include a halal label on the packaging of the product to be traded. And if the product is non-halal, the product owner is required to provide information or information on the product to be sold. However, there are exceptions for micro and small enterprises (UMK). Business actors in the MSME category are required to be halal certified only based on the statements of business actors, and based on halal standards set by the Halal Product Assurance Agency (BPJH)<sup>17</sup>.

Furthermore, the problem is that not all Muslims have sufficient knowledge and awareness of something to be consumed. Regulated in Law Number 8 of 1999 concerning Consumer Protection (Consumer Protection Act) has also explained that consumers have the right to correct, clear, honest information regarding the conditions and guarantees of goods and/or services. Which means that the goods to be purchased by the consumer have been guaranteed and tested according to procedures. A product is declared halal if it has a certificate from LPPOM-MUI as the authorized institution. Then the POM Agency gave permission to install halal labels and the Ministry of Religion was tasked with conducting socialization and fostering halal food. This has become the obligation of BPJH to provide a halal label on every product that meets halal criteria.

Basically, legal protection for consumers is protecting consumer rights that have been clearly formulated in laws and regulations that should be considered and protected by business actors. It's just that in practice this is often neglected because of the bad intentions of business actors. On the other hand, because of the high consumer demand for using skincare, it encourages business actors to get the maximum profit. This happens because business people are sometimes very eager to get as much profit as possible in various ways without considering ethical issues, such as honesty, justice and humanity. This is proven by the increasingly intensive promotions from the business actors through various social media so that sometimes it buries the rational attitude of consumers which in the end is negligent in selecting products on the market. Overseas organic cosmetics are made with a minimum of chemicals or may use completely natural products. Moreover, to increase consumers' environmental awareness and to promote innovative

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<sup>17</sup> Peraturan Pemerintah Pengganti Undang-Undang (Perpu) No 2 Tahun 2022 Pasal 48 angka 1

and eco-friendly businesses, companies use eco-friendly labels on their products.<sup>18</sup> Skincare contains the dangerous ingredients in question, namely skincare products with the HN Cream brand, the large number of HN Cream skincare circulating in the community is quite interesting because the low prices offered can get maximum results and tend to be fast. Of course, this is very tempting consumers, especially teenagers. Mochamad Isaneni, argues that basically issues of legal protection in terms of their sources can be divided into 2 (two) types:<sup>19</sup>

1. Internal legal protection;
2. External legal protection.

### Internal Legal Protection

Internal legal protection is legal protection created through an agreement made by each party. The parties design the contents of the agreement themselves which can give birth to legal protection for the parties bound by the agreement. The agreement was made with the aim that the interests of the parties are accommodated on the basis of a mutual agreement. Legal protection through the agreement will be realized if the position of the parties bound in the agreement is equal so that it is balanced.<sup>20</sup> Business actors and consumers can make their own agreements in accordance with the mutual agreement before carrying out sale-purchase transactions to avoid losses to business actors and consumers that will arise after the transaction where the agreement in question is a sale-purchase agreement. The contents of the agreement agreed upon between business actors and consumers in buying and selling skincare transactions usually include:

1. Doing a return of goods by exchanging if the goods ordered are not in accordance with the order;
2. Costs for returning goods are borne by consumers such as shipping costs if purchases are made online;
3. Refund if the skincare ordered is proven to be fake or not original skincare;
4. There is a specified time limit for the process of returning or exchanging goods;
5. Goods that are proven to be fake or not original can be returned on condition that the packaging is intact and the seal has not been opened;
6. Compensation if the items ordered cause bad side effects due to the use of fake skincare.

Sale and purchase agreements in Indonesia are regulated in the Civil Code (KUH Perdata) Chapter V Concerning Sale and Purchase Articles 1457 to Article 1540. According to Salim HS, an agreement is a legal relationship between one subject and another subject in the area of property, where other legal subjects are obliged to carry out

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<sup>18</sup> Products An et al., "Factors Influencing The Attitude Of Women Towards Purchasing Green" 48, no. November (2020): 38–64.

<sup>19</sup> Moch. Isnaeni, *Seberkas Diaroma Hukum Kontrak*, PT. Revka Petra Media Surabaya, 2017, 29.

<sup>20</sup> Moch. Isnaeni, *Pengantar Hukum Jaminan Kebendaan*, PT. Revka Petra Media Surabaya, 2016, 159.

their achievements in accordance with what has been agreed upon.<sup>21</sup> According to Article 1457 of the Civil Code, a sale and purchase agreement is an agreement, by which one party binds himself to surrender an object (business actor) and the other party to pay the price that has been promised (consumer). Usually, a sale and purchase agreement are made orally or in writing based on the agreement of the parties (entrepreneurs and consumers).

In an agreement according to the provisions contained in article 1320 of the Criminal Code generally contains several elements:<sup>22</sup>

1. Parties, at least two people. The parties acting as the subject of the agreement consist of business actors and consumers;
2. Agreement between the parties, before making an agreement or in entering into an agreement, the parties have the freedom to make bargains;
3. There is a goal to be achieved, in achieving the goal the parties are bound by the provision that the goal may not conflict with law, decency and public order;
4. There are achievements that must be carried out, the parties to an agreement have certain rights and obligations;
5. An agreement can be made orally or in writing. In an agreement made in writing, made in accordance with existing provisions;
6. There are certain conditions, because a valid agreement is binding as a law for those who make it. In order for an agreement to be said to be a valid agreement, the agreement has fulfilled certain conditions.

Legal consequences in an agreement or agreement based on Article 1338 of the Civil Code (KUH Perdata) which can include three types:<sup>23</sup>

- a. Agreements are binding on the parties; this is the same as Article 1338 paragraph 1 of the Civil Code which states that all agreements made legally apply as laws for the parties who make them;
- b. An agreement cannot be withdrawn unless based on an agreement by both parties which can also be based on reasons justified by law Article 1338 paragraph 2 of the Civil Code;
- c. An agreement must be carried out in good faith article 1338 paragraph 3. An agreement between the two parties where one of the parties is not based on good faith, for example based on the motive of committing fraud or embezzlement so that it has the potential to be null and void because it violates one of the principles of the agreement, namely a lawful cause.

The form of internal legal protection for consumers is contained in agreements or agreements made between business actors and consumers of the HN Cream itself. This

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<sup>21</sup> Salim HS, *Hukum Kontrak, Teori & Teknik Penyusunan Kontrak*, Sinar Grafika, Jakarta, 2008, 27.

<sup>22</sup> Moch. Syaufii Syamsuddin, *Perjanjian-Perjanjian Dalam Hubungan Industrial*, Sarana Bhakti Persada Jakarta, 2005, 5-6.

<sup>23</sup> Yusmita, dkk, "Perlindungan Hukum Terhadap Penerima Pinjaman Uang Berbasis Teknologi Informasi", *Jurnal Akrab Juara*, Vol. 4 Nomor 5, November 2017: 178.

means making agreements based on the principle of freedom of contract. The agreement or agreement must be based on a clause regarding HN Cream skincare which contains the rights and obligations of each party which must be made in written or direct form. In addition, it must be based on subject and authority, so that the parties have clear authority to enter into agreements in transactions up to use. The agreement must also be based on a clause on the parties that are free to agree. This is done to determine his will in the agreement or agreement while taking into account the provisions of the laws and regulations. The agreement must also contain a clause regarding all risks that might occur, for example a default occurs so that there is an effort to prevent all risks.

These clauses are also made on the basis of agreement as well. By analyzing the provisions of Article 1338 (1) and Article 1339 of the Civil Code, the power to bind a contract is to obtain work power that reaches the parties because it is desired by the parties.<sup>24</sup> The juridical consequences of binding contracts are recognized as the main determining factor, so that the parties cannot simply rule them out, namely business actors and consumers who send HN products. Even though at first the HN Cream business actors and HN Cream consumers had agreed or agreed to make sales or purchases, there were still things that were incomplete to meet the sales requirements such as clauses regarding all risks that might occur from using the product.

For this reason, it is necessary to hold an agreement between the HN Cream business actor and the HN Cream consumer which can bind both parties, in which the seller and buyer promise and bind themselves to buy and sell. This means that both parties must comply with and implement the agreement that has been made. Both parties also may not immediately withdraw or renege on their agreement. If it is related to the concept of Article 1338 of the Civil Code, then anyone who breaks a promise in an agreement will be subject to sanctions because they have violated the law. The agreement must contain the principle of good faith as stated in Article 1338 of the Civil Code. The existence of the principle of good faith requires that the parties carry out based on the trust of the contracting parties. HN Cream business actors and HN Cream consumers to provide balanced or proportional benefits for the parties.<sup>25</sup>

### **External Legal Protection**

External legal protection is legal protection created by the authorities through the formation of regulations aimed at the interests of the weak. In accordance with its essence that a regulation should be made in a balanced and proportional manner without discriminating or favoring certain parties. External legal protection is formed to prevent injustice, arbitrariness of the interests of other parties, and losses for weak parties.<sup>26</sup> In external legal protection, legal protection for skincare users is contained in Article 7 of the Consumer Protection Act concerning the obligations of business actors who must

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<sup>24</sup> Subekti, "Perlindungan Hukum Bagi Konsumen Pada Jual Beli", *Jurnal Kajian Hukum dan Keadilan* Vol. 5 No. 2, Desember 2021: 17.

<sup>25</sup> Ery Agus Priyono, "Peranan Asas Itikad Baik Dalam Kontrak Baku (Upaya Menjaga Keseimbangan bagi Para Pihak)", *Jurnal Hukum* Vol. 1 No. 1, November 2017: 8.

<sup>26</sup> Moch. Isnaeni, *op.cit.*, 39-42.

have good intentions in conducting transactions, provide good and honest and non-discriminatory services, provide clear and correct information, and can also guarantee the quality of skincare traded. They must also be willing to provide compensation due to use if the skincare sold causes bad side effects and provide guarantees for the HN Cream skincare that is traded.

In Chapter IV, Article 8 to Article 17 of the Consumer Protection Act, it has been regulated actions that are prohibited for entrepreneurs in running their business. The sale of counterfeit goods is expressly regulated in Article 8 letter (d), Article 8 letter (e), Article 8 letter (f), Article 8 paragraph (3), Article 9 and Article 10. Article 8 letter (d) of the Consumer Protection Act that “employers are prohibited from selling skincare that is not in accordance with the conditions, efficacy, or benefits as stated on the label or description on the label”. Article 8 letter (e) of the Consumer Protection Act that “entrepreneurs are prohibited from selling skincare that is not in accordance with the quality and composition as stated on the label or description”, because in counterfeit skincare the composition that is made does not match the label, causing negative effects on consumer skin after there is usage.

Article 8 letter (f) of the Consumer Protection Act that “entrepreneurs are prohibited from producing and/or selling goods and/or services that are not in accordance with the promises stated on labels, etiquette, descriptions, advertisements or promotions for the sale of these goods and/or services”. Article 8 paragraph (3) of the Consumer Protection Act that “entrepreneurs are prohibited from selling skincare containing damaged, used, and polluted ingredients without providing complete and correct information”. If consumers feel they have been harmed, consumers can ask for accountability for their rights that have been violated by these business actors. Article 9 of the Consumer Protection Act and Article 10 of the Consumer Protection Act that “entrepreneurs are prohibited from offering, trading and promoting skincare with false statements.”

Another way to protect consumers is by forming the Indonesian Food and Drug Authority (BPOM). BPOM is a Non-Departmental Government Institution formed by the Government to protect the security, safety and health of consumers by detecting, preventing, and monitoring products (drugs and food) circulating in the community.<sup>27</sup> The Food and Drug Monitoring Authority (BPOM) was formed based on Presidential Decree Number 103 of 2001 concerning Position, Duties, Functions, Authorities, Organizational Structure and Work Procedures of Non-Departmental Government Institutions Based on article 2 of Presidential Regulation Number 80 of 2017 concerning the Indonesian Food and Drug Authority:

1. BPOM has the task of carrying out governmental tasks in the field of Drug and Food control in accordance with the provisions of laws and regulations.

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<sup>27</sup> Siti Qona'ah, “Strategi BPOM Dalam Upaya Mengatasi Pemberantasan dan Penyalahgunaan obat Ilegal Melalui Gerakan “Waspada Obat Ilegal”, *Jurnal Komunikasi*, Vol 11, No.1 , Maret 2020: 55.

2. Drugs and food as referred to in paragraph (1) consist of drugs, medicinal ingredients, narcotics, psychotropics, precursors, addictive substances, traditional medicines, health supplements, cosmetics and processed food.

In addition to BPOM, the government also established the National Consumer Protection Authority (BPKN) which is regulated in Chapter VIII of the Consumer Protection Act starting from Article 31 to Article 43. BPKN has the function of providing advice and considerations to the government in an effort to develop consumer protection in Indonesia. In Article 34 Paragraph (1), in carrying out its functions, BPKN has several tasks:

1. Provide advice and recommendations to the government in the framework of formulating policies in the field of consumer protection;
2. Conduct research and review of applicable laws and regulations in the field of consumer protection;
3. Conduct research on goods and/or services related to consumer safety;
4. Encouraging the development of non-governmental consumer protection institutions;
5. Disseminate information through the media regarding consumer protection and socialize the attitude of partiality towards consumers;
6. Receiving complaints about consumer protection from the public, non-governmental consumer protection organizations, or business actors;
7. Conduct surveys concerning consumer needs.

The next institution officially formed by the government to protect consumers in Chapter IX Article 44 is the establishment of the Non-Governmental Consumer Protection Agency (LPKSM). Based on Article 44 Paragraph (3) some of the tasks of LPKSM are:

1. Disseminating information in order to increase awareness of the rights and obligations and prudence of consumers in consuming goods and/or services;
2. Provide advice to consumers who need it;
3. Cooperate with relevant agencies in an effort to realize consumer protection;
4. Assisting consumers in fighting for their rights, including receiving consumer complaints or complaints;
5. Carry out joint supervision of the government and the public on the implementation of consumer protection.

In Article 29 of the Consumer Protection Act, the government is also responsible for fostering the implementation of consumer protection in order to empower consumers to obtain their rights. This consumer empowerment according to the principles of justice and balance, must not be detrimental to the interests of entrepreneurs, but on the contrary

through consumer protection, it is hoped that it can encourage fair business competition through the provision of quality goods and/or services.<sup>28</sup>

The form of legal protection for consumers against the use of dangerous goods already exists in the Consumer Protection Act, this shows that consumers have legal protection. Losses arising from the HN Cream skincare products used by consumers should be compensated in accordance with the consequences arising from the actions of entrepreneurs who trade the HN Cream skincare. This is very important to do as a form of protection for consumers so that they are not tempted anymore by cheap skincare such as HN cream which is harmful to the health of consumers' skin. The government also asks consumers to report when they find skincare that is not registered with BPOM. If someone sells skincare that contains dangerous ingredients or is not registered with BPOM, *the government has the authority to withdraw products from the market and those that are proven not to meet quality and/or safety and/or efficacy requirements, can be confiscated and destroyed in accordance with statutory provisions.* This is done by the government to protect consumers to avoid losses that will arise when using HN skincare which contains dangerous ingredients to avoid violations committed by entrepreneurs who sell HN Cream skincare. In fact, consumers here are in a weak position. It must be admitted that not all entrepreneurs understand the obligations they should carry out in protecting consumers. There are still many entrepreneurs who put aside the true interests of consumers to get good quality and healthful products. In reality, there are marked differences between legal provisions and practice in the field.<sup>29</sup>

#### IV. CONSLUSION

Islamic law encourages mankind to seek blessed sustenance, encourages production, and pursues economic activities in various business fields, such as industry, trade and other fields. In these activities, Islam encourages every deed to produce products that are beneficial to mankind, bring prosperity and prosperity to the community at large, and can prevent society from cheating, both committed by sellers and producers. This can be based on values and ethics originating from basic religious values that uphold justice and honesty. Islamic law does not specifically regulate the inclusion of the safety of skincare products, but the state regulates the inclusion of the usable limit. There are two legal protections for consumers, internal legal protection and external legal protection. Internal legal protection takes the form of an agreement, where the parties can create their own legal protection as desired according to the agreement. Meanwhile, external legal protection regarding protection that comes from statutory regulations. External legal protection based on the Consumer Protection Act is contained in Article 4 concerning consumer rights and Article 7 regarding obligations of entrepreneurs. Another form of protecting consumers is the establishment of the National Consumer Protection

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<sup>28</sup> A.Rahmi Ainun Kirana, Ilham Abbas, Muhammad Rustan, "Perlindungan Hukum Terhadap Konsumen Terkait Penjualan Barang Bermerk Palsu Melalui Transaksi Online Ditinjau Berdasarkan Hukum Perdata", *Jurnal Ilmu Hukum* Vol. 2, No. 1, Agustus 2021: 13.

<sup>29</sup> Yudha Hadian Nur, Dwi Wahyuniarti Prabowo, "Penerapan Prinsip Tanggung Jawab Mutlak (*Strict Liability*) Dalam Rangka Perlindungan Konsumen" *Litbang Perdagangan* Vol. 5, No. 2, Desember 2011: 184.



Authority (BPKN) which is regulated in Chapter VIII of the Consumer Protection Act starting from Article 31 to Article 43 and in Chapter IX Article 44 is the establishment of the Non-Governmental Consumer Protection Agency (LPKSM). In Article 29 of the Consumer Protection Act, the government is also responsible for fostering the implementation of consumer protection to empower consumers to obtain their rights.

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