

The Substantial Justice in the Implementation of Act No. 2 of 1981 Regarding Legal Metrology as IUS Constitutum

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Abstract : The Substantial Justice becomes an important aspect for consumers in Indonesia in terms of receiving products that have been through length measure, volume measure, weight measure, and their equipment (UTTP – ukur, takar, timbang dan perlengkapannya) beforehand, which are the research object of legal metrology. The definitions of Metrology and legal Metrology are regulated in Article 1 point a and b of the Act No. 2 of 1981 regarding Legal Metrology as a field of Science that covers broad concept of measurement, while Legal Metrology is a metrology that manages the measurement units, methods, and tools related to the technical requirements and regulation based on the law aimed to protect public interests in terms of measurement truths. The affirmation aligns with the basis of consideration of the Act No. 2 of 1981 regarding Legal Metrology that mandates the implementation of metrological activities in Indonesia to be channeled toward the realization of legal and justice certitude. The substantial justice itself is defined as the justice given in accordance with substantive legal regulations without considering the procedural faults that do not affect the Plaintiff/Petitioner’s substantive rights. It means that what is right formally-procedural might be faulted materially and its substances violate the justice (friedman, 1984). Vice versa, what is formally wrong might be justified materially and its substances are quite fair (there is a tolerance toward procedural violations as long as it does not violate the substances of justice). In other words, the substantive justice in law enforcement can ignore the law that does not give the sense of justice, yet oriented to the formal procedural law that gives the sense of justice and guarantees certitude. Based on some case verdicts related to the real legal metrology, the writer acknowledged that the aspired substantial justice is not accomplished. Moreover, the unaccomplished substantial justice caused a wide loss for the public, in this case, are the consumers. Through this research, the writer aims to give a knowledge contributed to the government as the implementer of legal Metrology law, to revise the law in order to establish the substantial justice and to give knowledge toward the public that acts as the consumers or businessmen in Indonesia to be obedient and implement what is mandated by the Legal Metrology Law. The research method applied in this research is a juridical-normative method, conducted qualitatively and quantitative. The overall research and writing are basically related to two main aspects, which are the legal establishment and legal implementation to actualize the legal and justice certitude in the field of Legal Metrology.

Keywords: Substantial Justice, Legal Metrology, Consumer Protection

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I. INTRODUCTION

One of the types of law that is very influential in the national development comprising of social justice values for all Indonesians is the Act No. 2 of 1981 regarding Legal Metrology that mandates the implementation of metrological activities in Indonesia to be channeled toward the realization of legal and justice certitude. The advancement on science and technology, supported by the era of globalization, bring an impact on the increase of quality in both variety and quantity of measurement (UTTP – ukur, takar, timbang dan perlengkapannya), therefore, it requires an intensive monitoring toward the use of UTTP in a commerce in creating an orderly measure in the society as one of the actualizations of legal protection for consumers related to achieving justice. This means that the metrological implementation based on the law is expected to give legal protection to consumers in Indonesia in purchasing products from the businessmen can get justice certitude so that the consumers are avoided from loss. Nowadays, the justice guarantee is rather difficult to be acquired by the consumers because the law enforcement of legal metrology has not given any legal and justice certitude (BPHN, 2013). The high number of violations done by businessmen in implementing proper and correct legal metrology indicate the legal protection both preventive and repressive (Philipus, 1987) has not been implemented well. The

same goes with the sanctions for businessmen who violate legal metrology, either it is civil, criminal, or administrative sanctions. Therefore, the sense of substantial justice has not been established (Mahfud, 2018). According to Ulpianus (\pm 200 AD), “*justitia est constans et perpetua voluntas ius suum cuique tribuendi*”. Justice is a steady will to distribute each to its parts. In English, it translates to “to give everybody his own”, or giving each individual what is their right (Santoso, 2012). The idea of that understanding is to give the rights and not more, yet not less than the rights itself. Justice cannot be merely expected or recommended. It binds everyone so that they have an obligation (Nugroho, 2007). The substantial justice itself is defined as the justice given in accordance with substantive legal regulations without considering the procedural faults that do not affect the Plaintiff/Petitioner’s substantive rights. It means that what is right formally-procedural might be faulted materially and its substances violate the justice (friedman, 1984). Vice versa, what is formally wrong might be justified materially and its substances are quite fair (there is a tolerance toward procedural violations as long as it does not violate the substances of justice).

In other words, the substantive justice does not necessarily mean that the judge must always ignore the law. Instead, with the substantive justice, it means that the judge can ignore the law that does not give the sense of justice, yet still be oriented to the formal procedural (Hoesein, 2013) law that already gives the sense of justice and guarantee certitude. The law so far only has a firm principle toward procedural justice instead of substantial. In this case, the procedural justice is a justice that refers to what the law states. As long as the law is actualized, the formal justice is accomplished. Further research on whether materially the justice can be perceived as morally fair by all or not is required (Rawls, 2006). The procedural justice enforcers tend to ignore it. They typically are positivistic and does not consider the way the public does not sense the justice, in which the law is truly a facility to actualize justice beyond formality. Referring to John Rawls’ argument that justice (Nasution, 2015) is fairness or honest fairness, then this is not only in the context of judgment toward the justice or fairness but more on the actualization of the fair justice itself. They do not only discuss the distribution and compensation as fair justice but also the individuals who act fair or unfair (Hart, 2011). Indonesia is a country that prioritizes the concept of welfare country appropriate to the opening of the Constitution and closely related to the Act No. 2 of 1981 regarding Legal Metrology. The concept of welfare state is an actualization of interventionist thinkers wherein a state intervention toward the public will enhance their economic and welfare development (Anderson, 2002). Their thoughts do not eras the welfare state, yet these thinkers agreed on the state intervention to the public, only the poorest of them. However, the occurrence of the welfare state is different in many countries. The development of developed countries happened with an exclusive debate on the political economy advancement from the two ideas above. Nevertheless, the results of this debate generated an improvement in the public’s welfare until today (Rothstein, 2002). In relations to the substantial justice, in the development of developing countries that adopt the concept of welfare state including Indonesia, the government of the Republic of Indonesia will intervene the economic policies as it is recently conducted toward the concept of development in Indonesia (Rajaguguk, 2010). This interventive idea is the soul of development concept happening in developing countries. The situation in developing countries is rather different. The state intervention in the development planning in order to improve the public’s economy and welfare generated different results. The development programs and projects realistically benefit the agents more, either it is the government, businessmen, or even social organizations compared to the public generally (Tabb, 2003). Indonesia is a developing country with the biggest population after China and India. The population in Indonesia almost match the United States of America’s, which is around 250 million. As a country that earned its independence since 1945, Indonesia had undergone 4 amendment in its Constitution. By referring to the formulation of state goals written in the fourth paragraph of the Opening of Constitution, especially on the redaction “advance public welfare” (Utrecht, 1988), there are opinions that Indonesia adopts the concept of welfare state, such as one stated by Azhary and Hamid S. Attamimi. Azhary stated that the country (during that time) aspired by Indonesian was “welfare state”. On another section, Azhary stated, “If in the West welfare state had been recognized around 1960, then Indonesians had formulated it in 1945 by Suepomo, the Father of Indonesian Constitution”. During the formulation of 1945 Constitution, Yamin stated; “...that the country that was about to be established was solely for all people for the nation’s interests that will firmly stand in the country that will belong to them”. Furthermore, “The people’s welfare that becomes the basis and objectives of the independent country of Indonesia is briefly the people justice or social justice”. According to Hamid S. Attamimi, Indonesia since its establishment had determined to position itself as a state law, as a Rechtsstaat. Indonesia Rechtsstaat at that time was a Rechtsstaat that “advance public welfare”, “enrich the nation’s life”, and “actualize a social justice for all Indonesians”. Rechtsstaat is a material, social Rechtsstaat which Bung Hatta called as an Organizational Nation, a translation of *Verzorgingsstaat* (Notonegoro, 1971).

Therefore, Indonesia is clearly a nation with a state welfare concept as mandated in the 1945 Constitution, wherein the position of welfare is not formal, but material, which if it is measured by the justice concept becomes a substantial justice for all Indonesians. According to Hamid S. Attamimi, Indonesia since its establishment had determined to position itself as a state law, as a Rechtsstaat. Indonesia Rechtsstaat at that time

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II. RESEARCH PROBLEMS

Based on the background described previously, the writer formulates the research problems as follows:

1. How is the reflection of substantial justice in the sentencing regulated in the Act No. 2 of 1981 regarding Legal Metrology toward the violation in the field of legal metrology?
2. Is the Act No. 2 of 1981 regarding Legal Metrology is still qualified as the *ius constitutum* in Indonesia?

III. RESEARCH OBJECTIVES

To explain and reveal the truth of the substantial justice implementation as reflected in the sentencing regulated in the Act No. 2 of 1981 regarding Legal Metrology toward the violation in the field of legal metrology. And furthermore, to explain and discuss the validity of the Act No. 2 of 1981 regarding Legal Metrology as the *ius constitutum* in Indonesia. Therefore, this research can be a contribution of theoretical framework, as well as a knowledge for consumers, businessmen, and the government (as the policyholder).

IV. DISCUSSION

(1) The reflection of substantial justice in the sentencing toward the violation in the field of legal metrology

The substantive justice resists legalism that considers the Constitution as a sacred thing, as the regulation stipulated by Allah himself, or as a logical system applicable to any circumstance, because it is rational (Suprato, 2009). It considers that the pure legalism is impossible. Because all of the application of the rule of common and abstract law to concrete cases is a new creation of law. An employee’s administration is already a new law, leave alone a judge’s verdicts. Indeed, this juridical act presupposes a minimum rationality in the system of law, yet it is impossible to practice law with an entirely rational method. A judge’s verdict cannot be passed down from the existing regulations, because they are not perfect, probably wrong or inaccurate, therefore constitute injustice. An argument against this legalism was proposed by L. Pospisil:

1. If the law is located in abstract principles (regulations), it is not understandable why there are dead provisions, because they are out of date.
2. Abstract regulations do not reveal much on “social monitoring” (which is considered as the core of all law).
3. Futile regulations for the practices because the judges must make a decision in accordance with very different cases.

Legalism is also debated among the adherents to Scandinavian legal realism. According to them, we must be realistic, thus should not perceive governmental regulations as a nearly perfect thing. One of the Scandinavian legal realism figure, Alf Ross, proposed a social reality theory which is against Kelsen theory, assuring that juridical must is a category that is totally detached from social reality, such as Kant tradition understood as a *Sollen* completely separate from *Sein*. Because of this separation, Kelsen kept looking for the basic norm (*Grundnorm*) to underlie the law application. Yet, Ross resists norms that are detached from the social reality. The applicable norms merely function in the limit of a law making process, wherein juridical events are combined with legal sanctions

Law is always attached to life practices. Because of the attachment, the life practices are clearly viewed in the law so that it has its rationality. For instance, a judge who faces an occasion and involves practical values of life in the consideration is not acting irrationally. The verdicts (even though it cannot be passed down from the law syllogistically) are not generated from emotions, not a struggle of personal interests, not an act of violence, but a result of a rational consideration, therefore, it is “logical”. As a proof, the court always mentions the reasons underlying the verdicts, based on ‘juridical logics’ (Notohamidjojo, 1975).

The substantive justice does not align with the theory of natural law because it does not give a clear limitation on the definition of nature and its essential traits. The difficulties occur from the common understanding that equalizes ‘natural’ and ‘custom’ right away, ‘according to nature’ is then equalized with what is accepted and admitted by the society as a normal practice in the daily basis. There is a danger that what is normally done is perceived as appropriate as the norm of action. Whereas, it is not always good. The life in accordance with natural law basically does not appreciate the honor or nobleness of the human mind. Even though the differentiation between the natural law applicable for rational beings and another one applicable for non-rational beings has become a milestone in escaping the difficulties of the deterministic natural law theory, this exit way still has some difficulties in the application of positive law (Ujan, 2009). To further understand substantive justice, the writer argues in several legal cases related to the legal metrology violation as follows:

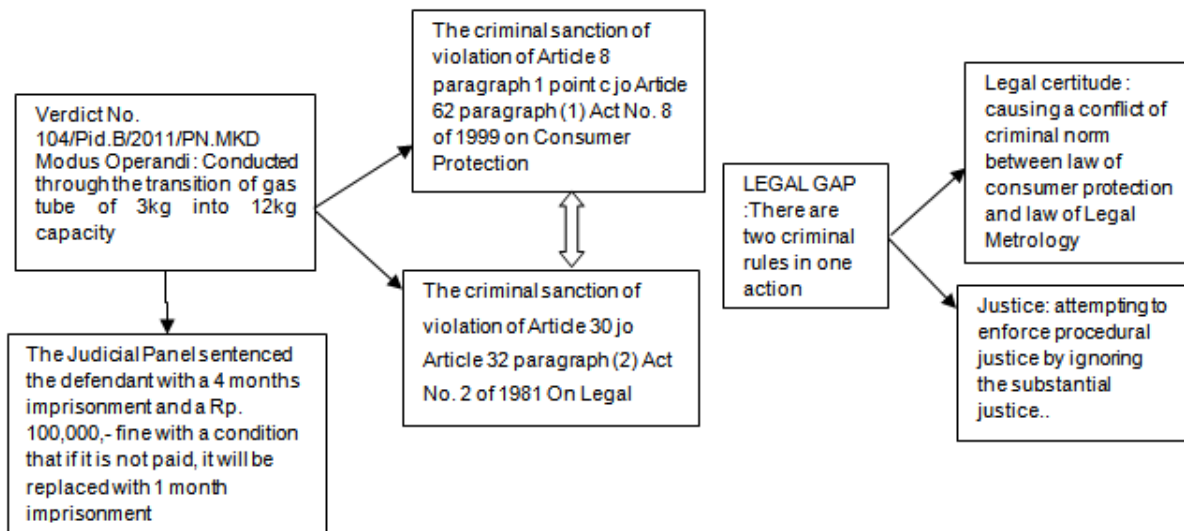


Figure 1. Verdict No. 104/Pid.B/2011/PN.MKD

The implementation of the two laws in one criminal act related to legal metrological aspects in the verdict No 104/Pid.B/2011/PN.MKD consists of *contradictio in terminis*, which means there is a rationality paradox in the existence of the Act No. 2 of 1981 regarding Legal Metrology that regulates the calibration. Apparently, the law of legal metrology intersects with the law of consumer protection. Technically, metrology is regulated in the law of Legal Metrology, yet juridically, the legal protection toward the user of legal metrology is regulated in the law of consumer protection, therefore, if the judge applies two different regulations in one criminal action, then the judge is supposed to apply *Lex Specialis Derogate Legi Generalis* or *Lex Posterior Derogat Legi Priori*. The writer argues that the Judge Panel of the *a quo* case should apply only the law of consumer. The application of Consumer Protection law, in this case, can constitute a substantial justice because using both of the laws would make the judge ignores the legal certitude and justice, either procedural or substantial. Supposedly, the judge does not apply both of the laws with alternative charges because the judge is expected to acknowledge the legal substance of both laws, in relations to the circumstances.

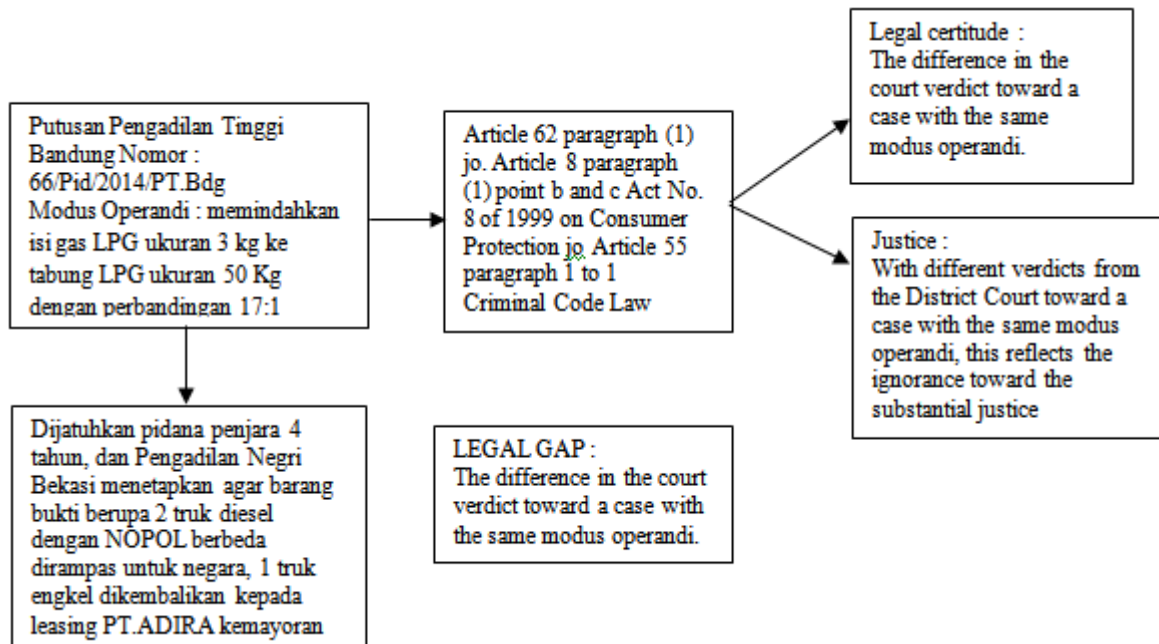


Figure 2. Verdict of Bandung High Court No. : 66/Pid/2014/PT.Bdg

Based on John Stuart Mill's statement, the equal treatment is not accomplished in the Verdict of PN Jambi No: 30/Pid.Sus//2013/PN.JBI, Verdict of Bandung High Court No. Nomor 66/ Pid/ 2014/ PT. Bdg, and verdict No. 104/ Pid.B/ 2011/ PN.MKD. Previously, Derrida argued, "The question of justice is not matter of universal

definition, but is rather following question: How can we, in our particular time and place, work toward justice.” Often, discussing justice intersects with the philosophy, abstract justice, and imaginative reality where justice is supposed to be contained in the concrete sociological reality within the society.

(2) The Act No. 2 of 1981 regarding Legal Metrology ius constitutum in Indonesia

It is known that in its development, metrology organization is facing a major challenge not only in the attempts to provide protection to the public interests in a form of measurement truth in the trade sector but also in other sectors related to measurement practices in order to provide protection toward the consumers. The consumer protection law enforcement through the legal metrology organization during the decentralization era is based on the theory that the Act No. 2 of 1981 regarding Legal Metrology is a legal product of a centralistic government. Upon entering the decentralization era since 1999, along with the establishment of the Act No. 22 of 1999 regarding Regional Government that later on was replaced by the Act No. 32 in 2004 and Act No. 23 in 2014, it is clear that the governmental organization related to the central and regional government’s authorities had been different (a transformation from centralistic into decentralized). The writer found one important thing because whether in a centralistic or decentralization era, Act No. 2 of 1981 regarding Legal Metrology is still applied. In other words, it can be understood that the Act No. 2 of 1981 regarding Legal Metrology remains to have the consumer protection aspects in both the centralistic and decentralization era. The implementation of legal metrology practices until 2014 was still oriented to the Act no. 32 of 2004 regarding Regional Government, which in detail based on the Government Regulation No. 38 of 2007 regarding Division of Government Affairs between the Central, Provincial, and District Government as depicted in the following table:

Table 1: Division of Legal Metrology Affairs
Government Regulation No. 38 of 2007

No	Legal Metrology Affairs	District/City	Province	Central
1.	Counseling and Observation	√	√	√
2.	Supervision and Investigation	√	√	√
3.	Implementation of Calibration and Recalibration	√	√	√
4.	Management of Size Standard and Laboratory	-	√	√
5.	UTTP Testing in relation to Licensing	-	-	√

Source: Naskah Akademik RUU regarding Metrologi Legals, BPHN, 2013.

The table shows that in the era of decentralization or regional autonomy, there is a division of governmental legal metrology affairs toward 3 (three) government strata, such as the central, provincial, and district government. Yet, due to the affairs of legal metrology organization being a choice of Provincial and District Government, then the principles of autonomy organization at the widest are still based on the potential and priority of each region. Meanwhile, the Legal Metrology law aligns with its history of establishment under the centralization era, then it is explicitly stated as the metrological affairs managed by the Minister responsible for legal metrology sector, which is the Minister of Trade. The minister, based on the mandate he received, issued Regulation of the Ministry of Trade No. 50 of 2009 regarding Assessment of the Working and Technical Implementing Unit of Legal Metrology.

Based on Act No. 32 of 2004 regarding Regional Government and the Legal Metrology law, it is clearly seen the difference in treatment of the legal metrology affairs. The Act No. 32 of 2004 regarding Regional Government have handed some of the legal metrology affairs to the provincial and district government despite categorized as optional affairs, while the Legal Metrology law remains to treat it as the central government affairs. This is certainly will affect the organization in the regions, especially in the organizational aspects. The flaw in its implementation is the weak deterrent effect because, with limited human resources, sanctions of supervision is ineffective. According to the division of authority regulated in the Government Regulation No. 38 of 2007 regarding Division of Government Affairs between the Central, Provincial, and District Government, there is the authority of District Government. However, the problem is on the limited human resources, facilities, and infrastructures.

Supposedly, the Act No. 2 of 1981 regarding Legal Metrology needs to include the metrological organization in the regions which implementation regulations can be formulated within a lower Legislation. Yet, the absence of regulation on the metrological organization in regions in Act No. 2 of 1981 regarding Legal Metrology constitutes Regional Regulations which contents contradict the Legal Metrology law itself. An example of applicable Regional Regulations on the contrary with the Legal Metrology law is one that regulates the calibration tariff. The Legal Metrology law explicitly mentions that the calibration cost is stipulated through

government regulation, yet the regions re-created another regional regulation concerning the calibration cost with a Regional Regulation regarding the retribution.

During the decentralization era, each region can organize metrological practices but not deviate from the higher level of legislation. To enhance the legal metrology organization in regions, a guide to the establishment of structure, organization, and work procedures (SOTK – struktur, organisasi, dan tata kerja) in the Regional Officials implementing the government affairs in legal metrology sub-field as mandated in the Legal Metrology law. Those regional officials must sustain the good tasks and functions in coaching or service. However, the problem is that the high number of government affairs that must be implemented and the limited number of regional officials that can be formed (Government Regulation 41/2007) cause the regional difficulties in the establishment of SOTK of Regional Officials in the field of Legal Metrology.

Furthermore, the policy limiting the number of officials and the positions below it is also a problem, it causes the administration of fields and sub-fields of government affairs. Based on the Government Regulation No. 41 of 2007 regarding Regional Officials Organization, the administration of officials in the Field of Trade is included in the category of Economy, along with cooperatives, micro, small, and medium enterprises, and industry and trade. The Legal Metrology Sub-field is a part of Field of Trade covering the Domestic Trade, Legal Metrology, Foreign Trade, International Trade Cooperation, National Export Development, and Future Trade in commodity, alternative financing for warehouse receipt systems, and auction market. The amount of workload handled by the Officials specialized in the field of regional trade leads to the region’s tendency to implement the legal metrology affairs thoroughly through the regional officials forming the Regional Technical Service Unit (UPTD – Unit Pelayanan Teknis Daerah) or Office. Based on the Government Regulation No. 41 of 2007, UPTD or Office cannot organize a coaching event so that the community coaching functions in forms of supervision and investigation of criminal action toward Legal Metrology law and organizational coaching from provinces to Districts will not be operated well. The aspired conditions in the era of decentralization are, first, the provision of guideline of Regional Legal Metrology UPT formation that gives alternative options, that can also be implemented in the regions immediately.

This legal foundation can be in a form of a Join Regulation of Religious Affairs, Home Affairs, and State Apparatus Empowerment. Secondly, the provision of Technical Implementing Unit of Legal Metrology in Regions with SOTK that can facilitate service and coaching events either separately or collectively. Thirdly, the Formation of Legal Metrology UPT that is a service (Legal Metrology Laboratory) in accordance with the Minister Decree of Industry and Trade No. 633/MPP/ Kep/10/2002 concerning the Assessment of Legal Metrology Laboratory and the Minister Decree of Industry and Trade No. 634/MPP/ Kep/10/2002 concerning the Management of Legal Metrology Laboratory that is the elaboration of International Standard of ISO/IEC 17025 regarding the General Requirement of Laboratory Competency Testing and Calibration. The organization of metrology in Indonesia is based on the Legal Metrology law. This law replaced the inherited regulation from a colonial government of Hindia Belanda, Ordonnantie 1949 Staatsblad No. 175.

The Act No. 2 of 1981 came with several implementation regulations, including the Government Regulation No. 2 of 1989 regarding National Standard for Measurement Units and Government Regulation No. 102 of 2000 regarding National Standard replacing the Government Regulation No. 15 of 1991 regarding National Standard. The Government Regulation No. 10 of 1987 on Applicable Derivative, Additional, and other Units and Government Regulation No. 120 of 2001 on Measurement Units, Government Regulation No. 2 of 1985 on Obligation and Exemption of Calibration and Recalibration for Tools of Length Measure, Volume Measure, Weight Measure, and their Equipment (UTTP).

Besides, there is a Presidential Decree, the Presidential Decree No. 79 of 2001 regarding Committee of National Standard for Measurement Units and the Presidential Decree No. 3 of 2013 regarding Seventh Amendment of Presidential Decree No. 103 of 2001 regarding Position, Duties, Functions, Authority, Organizational Structure, and Non-ministerial Government Organizational Work Procedures. The writer creates an outline collecting the central government level of Legal Metrology regulations in Indonesia as follows:

Table 2 Collection of Central Government Level of Metrology Regulations in Indonesia

Law	Government Regulation (PP – <i>Peraturan Pemerintah</i>)	Presidential Decree	Ministerial Regulation
Act No. 2 of 1981 regarding Legal Metrology	Government Regulation No 26 of ‘83 regarding Tariffs of Calibration	Presidential Decree No. 7/1989 regarding DSN	Ministerial Regulation 61/MPP/Kep/2/1998 regarding Metrological Organization
	Government Regulation No. 2 of 1985 regarding Obligation and Exemption for Calibration and/or Recalibration		

Law	Government Regulation (PP – <i>Peraturan Pemerintah</i>)	Presidential Decree	Ministerial Regulation
	and Requirements for Length Measure, Volume Measure, Weight Measure, and its Equipment		
	Government Regulation 16/86 regarding Amendment of Government Regulation 26/83		Ministerial Regulation 251/MPP/Kep/6/1999 regarding Amendment of Ministerial Regulation 61 Metrological Organization
	Government Regulation 10/87 regarding Derivative Units		
	Government Regulation 2/89 regarding SNSU		50/M-DAG/PER/10/2009 regarding Working and Technical Implementing Units of Legal Metrology
	Government Regulation 102/2000 regarding National Standard		
			07/M-DAG/PER/3/2010 regarding Organization of Metrological Training
			08/M-DAG/PER/3/2010 regarding UTTP that must be Calibrated and Recalibrated
			48/ M - D AG/ P E R/10/2010 regarding Metrological Human Resources Management
			31/M-DAG/PER/10/2011 regarding BDKT
			70/M-DAG/PER/10/2014 regarding UTTP Calibration and Recalibration
			73/M-DAG/PER/10/2016 Regarding the difficulty level of UTTP and Technical Metrology Measurement Tools, as well as the Standard and Standard Tools/Equipment
			73/M-DAG/PER/10/2016 regarding imported UTTP
			23/2018 regarding Amendment of Ministerial Regulation 73/2016 regarding imported UTTP

The discussion of law enforcement factors is categorized into legal norm factor, law enforcement apparatus factor, infrastructure factor, public factor, and legal culture factor.

1. Legal Norm Factor

The problem with legal Norms of consumer protection through legal metrology in the regional autonomy era includes the norm formulation in the Legal Metrology law and Act No. 32 of 2004 regarding Regional Government jo. Act No. 2 of 2015 regarding the Stipulation of Government Regulation Replacing Act No. 2 of 2014 regarding Amendment of Act No. 23 of 2014 regarding Regional Government into Law, as well as the legal regulations that become the derivation of each of the law, especially Legal Metrology law. Firstly, the regulation on authority and legal metrology practices that is regulated in the Act No.32 of 2004 regarding Regional Autonomy and the continuing ones, yet, there are several aspects that have been changed by Act No. 23 of 2014 regarding regional Government, which is metrology affair that has been entirely handed over to District Government. Therefore, it caused a new problem related to the Provincial government's financial balance with the District Government's. The legal metrology organization as mandated in the Legal Metrology law is a mandatory practice (because the Act No. 2 of 1981 is a product of new order with a centralization system that was applied) and a standard along with its competency-based implementation, integrated with international conditions wherein the implementers are not exempted from both national and international conditions (Zulkarnaini, 1993). Mandatory means there is a public obligation to obey the conditions of Legal Metrology law. This implicates the Government's obligation to facilitate the implementation. Meanwhile, a standard means that the organization of legal metrology practices can be implemented simultaneously across the

Unitary State of the Republic of Indonesia (NKRI). Competency-based refers to the technical operational implementation that is conducted by accredited laboratory and competent and professional metrological experts. Additionally, integrated with international conditions means the technical operational implementation refers to the technical conditions and requirements that are international. The organization of Governmental Affairs in Legal Metrology Sub-field, as elaborated in Government Attachment Regulation No. 38 of 2007, is a part of optional affairs in the field of trade by the Government, provincial and district. To guarantee the consistency in the regional organization, the technical operational implementation refers to the national policy in the field of legal metrology, stipulated by the Government, covering the standard management, measurement units, and legal metrology laboratory, coaching of UTTP standardization, services of UTTP calibration and recalibration, and counseling.

2. Law Enforcer Factor

The mentality or personality of the law enforcer apparatus (Judge, Prosecutor, Police, and Advocate) plays a huge role in law enforcement. If the regulations are already good, yet the quality of the apparatus is not, then the law enforcement cannot be implemented well. The law enforcement factors in the context of legal metrology implementation is the human resources in the calibration and supervision. The main issue is the limited implementing human resources, the difficulty faced is aggravated by the expensive investment of human resources. Human resources and supervision are like a two-edged knife. The supervision will impact the calibration. In this case, the supervision is the apparatus in the agency either in the level of province or district, meanwhile, the investigator of Government Employees (PPNS – Pegawai Negeri Sipil) that will conduct the supervision. The result of PPNS' supervision will be reported to the calibration officers.

3. Infrastructure Factor

The tools in the metrology organization are imperative and need to be regularly tested to guarantee the accuracy. The function of testing on legal metrology tools in districts is important and supposed to be the duty and function of provincial government. Related to the provision of infrastructures. The limitation of funds and financing often happen as the effect of late profit sharing funds disbursement (balance fund) from the central, therefore, it affects the timing for conducting the activities, to be relatively shorter. The industrial and trade infrastructures, whether for the public or apparatus, have not been adequate.

4. Public and Legal Culture Factors

The public and legal culture factors are intertwined unity (Pound, 1961). In the legal metrology organization, the public is categorized into two groups, the businessmen and consumers. Meanwhile, the legal culture (Soekanto, 2005) basically covers the fundamental values of the applicable law, values that are the abstract conceptions of what is considered good (to be embraced) and bad (to be avoided). The legal culture is also a public hope, perception toward the law (Derrida, 2001). The strong public factor affects the legal metrology organization through the attitude of the businessmen who remain to use methods that violate the law in order to acquire profits in trading. Practically, the businessmen still prioritize the profit aspects obtained by ignoring the protection of the consumers' interests. Moreover, the businessmen also commit fraud when encountering the supervisor by providing two scales. The first one is the one which accuracy is regularly tested. It is shown when the supervisors are around. Yet, when they are away, they use the scale which is not accurate and harming the consumers. However, the consumers' attitude upon receiving such practices has become normal, though it hampers the attempts to achieve the objectives of legal metrology organization. The consumers themselves are not critical of such fraudulent practices done by the businessmen.

According to the research findings that Housewives are not able to verify the truth of scale or calibration tools, if they use 3kg LPG, then they only know that the gas contained in it is 3kg. Similarly, the micro businessmen, who are the initial consumers where they received goods like LPG gas tube from the distributors, of course, do not certainly know whether the tubes contain the right amount of gas or not. In its implementation, businessmen's attitude tends to consider the Legal Metrology law substantially harms and hampers their enterprise or becomes an obstacle for them so that they collectively violate the regulation. This cannot be separated from the absence of the decisive action from the official law enforcers. From the social aspects, the perpetrators who ignore this regulation are caused by the moral that does not align with the objectives of Legal Metrology law. Besides, one of the issues in legal metrology implementation is the lack of socialization on Legal Metrology law and its working procedures. This factor contributes to the low importance of legal metrology for the people, especially in terms of consumer and seller's interests. The legal culture factor is also determined by the government's commitment to reinforcing the law on legal metrology sector. When the function of supervision is not organized well due to the limited expenditure or human resources, then the sellers consider that the legal metrology does not matter. This factor is also determined by the apparatus' inconsistent attitude in the law reinforcement (Hurwitz, 1986), such as letting the deviant practices conducted by the sellers.

In such condition, the consumer's critical attitude is suppressed because they think that the government and businessmen are on an equal position and on the contrary to their interests.

After the Researcher spread questionnaires to the Public/Households and Public/Micro Enterprises in Jambi Province (with samples of 6 Districts and 2 cities), the Researcher also gave questionnaires to the Public/Households and Public/Micro Enterprises in East Java Province (with samples of 10 Districts and 4 Cities), DKI Jakarta Province (with 5 samples of 5 Administrative City), and West Java Province (with samples of 9 Districts and 5 Cities). The selection of these regions was based on three specific criteria determined personally by the writer, including East Java as the most densely populated province in Indonesia, therefore, the consumer, of course, participate more including the presence of a legal case in Mojokerto District, meanwhile, DKI Jakarta was chosen as a sample because it is the capital of the Republic of Indonesia, which is also the center of business and trade, more than any other province. Furthermore, West Java was chosen because it supports DKI Jakarta wherein the stream of goods distribution with a big volume happens there in West Java. Thus there is a study case that becomes the research subject in Banten Province with the same qualification of questions. Based on the responses to the questionnaires, acquired a table and explanation as follows:

Table 3 Using LPG in Microenterprises

No.	Item	Score of respondent's answer							
		1		2		3		4	
		F	%	F	%	F	%	F	%
1.	How often do you use LPG in your microenterprise	22	91.7	2	8.3	0	0.0	0	0.0
2.	Which size of LPG tube do you use	23	95.8	1	4.2	0	0.0	0	0.0
3.	How many LPG tubes do you use in a month	19	79.2	0	0.0	2	8.3	3	12.5
4.	Is the LPG easy to get	2	8.3	20	83.3	2	8.3	0	0.0

According to the table above, how often do you use LPG in your microenterprise. 91.7% responded with always, and 8.3% responded with sometimes. Which size of LPG tube do you use. 95.8% responded with 3 kg, and 4.2% responded with 12 kg. How many LPG tubes do you use in a month. 79.2% responded with 3 - 6 tubes; 8.3% responded with 9 - 12 tubes, and 12.5% responded with ≥ 12 tubes. Is the LPG easy to get. 8.3% responded with very easy; 83.3% responded with easy, and 8.3% responded with difficult.

Table 4 Using LPG in Microenterprises

No.	Item	Score of respondent's answer							
		1		2		3		4	
		F	%	F	%	F	%	F	%
5.	Are you concerned about the size of LPG gas tube you buy it	3	12.5	10	41.7	9	37.5	2	8.3
6.	Does the LPG use in your micro enterprise help	19	79.2	5	20.8	0	0.0	0	0.0
7.	What is the quality of the LPG you use	2	8.3	22	91.7	0	0.0	0	0.0
8.	How often do you encounter issues in using LPG	0	0.0	1	4.2	19	79.2	4	16.7
9.	The classification of issues you often encounter in using LPG	1	4.2	17	70.8	1	4.2	5	20.8

According to the table above, are you concerned about the size of LPG gas tube you buy it. 12.5% responded with strongly concerned; 41.7% responded with concerned; 37.5% responded with not really concerned, and 8.3% responded with strongly not concerned. Does the LPG use in your microenterprise help. 79.2% responded with very helpful and 20.8% responded with helpful. What is the quality of the LPG you use. 8.3% responded with very good and 91.7% responded with good. How often do you encounter issues in using LPG. 4.2% responded with often; 79.2% responded with hardly, and 16.7% responded with never. The classification of issues you often encounter in using LPG. 4.2% responded with the size is not in accordance with the label; 70.8% responded with damaged packaging; 4.2% responded with difficult LPG distribution, and 20.8% responded with no problem.

Table 5 Use of Unmatch Sized LPG

No.	Item	Score of respondent's answer							
		1		2		3		4	
		F	%	F	%	F	%	F	%
10.	What issues do you often encounter in using LPG which size is not in accordance with the label	19	79.2	1	4.2	0	0.0	4	16.7
11.	And where do you buy LPG gas tube	16	66.7	8	33.3	0	0.0	0	0.0
12.	Have you ever reweighed the LPG gas tube when you buy it	1	4.2	1	4.2	4	16.7	18	75.0

What issues do you often encounter in using LPG which size is not in accordance with the label. 79.2% responded with LPG runs out quickly; 4.2% responded with water inside the gas tube, and 16.7% responded with gas leak. And where do you buy LPG gas tube. 66.7% responded with stalls/merchants and 33.3% responded with agents/retailer. Have you ever reweighed the LPG gas tube when you buy it. 4.2% responded with always; 4.2% responded with always; 16.7% responded with rarely, and 75% responded with never.

Table 6 Acknowledging Act No. 2 of 1981 Regarding Legal Metrology in Microenterprises

No.	Item	Score of respondent's answer							
		1		2		3		4	
		F	%	F	%	F	%	F	%
13.	Are you familiar with Act No. 2 of 1981 regarding Legal Metrology	0	0.0	3	12.5	5	20.8	16	66.7
14.	Are you aware that the unmatched size of LPG gas tube can be charged with criminal sanctions in Act No. 2 of 1981 regarding Legal Metrology	0	0.0	3	12.5	7	29.2	14	58.3
15.	Are you familiar with Act No. 8 of 1999 regarding Consumer Protection	0	0.0	3	12.5	5	20.8	16	66.7
16.	According to you, what is the most appropriate sanction for sellers (stalls/retailer, agents, PERTAMINA) who sell LPG gas tubes with sizes not in accordance with the label	4	16.7	13	54.2	5	20.8	2	8.3
17.	How much is the fine can be sentenced to sellers/retailer who sell LPG gas tubes with sizes not in accordance with the label	1	4.2	1	4.2	5	20.8	17	70.8
18.	How much is the fine can be sentenced to distributors who sell LPG gas tubes with sizes not in accordance with the label	0	0.0	1	4.2	2	8.3	21	87.5
19.	How much is the fine can be sentenced to PERTAMINA who sell LPG gas tubes with sizes not in accordance with the label	0	0.0	0	0.0	1	4.2	23	95.8

Based on the table above, are you familiar with Act No. 2 of 1981 regarding Legal Metrology. 12.5% responded with familiar; 29.2% responded with somehow familiar, and (5 8.3%) responded with unfamiliar. Are you aware that the unmatched size of LPG gas tube can be charged with criminal sanctions in Act No. 2 of 1981 regarding Legal Metrology. 12.5% responded with aware; 20.8% responded with somehow aware, and 66.7% responded with unaware. Are you familiar with Act No. 8 of 1999 regarding Consumer Protection. 16.7% responded with strongly know; 54.2% responded with familiar; 20.8% responded with somehow familiar, and 8.3% responded with unfamiliar. According to you, what is the most appropriate sanction for sellers (stalls/retailer, agents, PERTAMINA) who sell LPG gas tubes with sizes not in accordance with the label. 16.7% responded with imprisonment; 54.2% responded with fine; 20.8% responded with revocation of business license, and 8.3% responded with warning letter. How much is the fine can be sentenced to sellers/retailers who sell LPG gas tubes with sizes not in accordance with the label. 4.2% responded with Rp 1,000,000; 4.2% responded with Rp 2,000,000; 20.8% responded with Rp 3,000,000, 78.8% responded with Rp 4,000,000. How much is the fine can be sentenced to distributors who sell LPG gas tubes with sizes not in accordance with the label. responded with 4.2% Rp 15,000,000; 8.3% responded with more than Rp 20,000,000, and 87.5%

responded with more than Rp 20,000,000. How much is the fine can be sentenced to PERTAMINA who sell LPG gas tubes with sizes not in accordance with the label. 4.2% responded with Rp 50,000,000 and 95.8% responded with more than Rp 50,000,000.

V. CONCLUSION

The substantial justice reflected in the customer protection law from legal metrology violations specifically on justice and legal certitude has not been accomplished in terms of sentencing to the legal metrology violations. For some similar cases, including the verdict on the case of illegal gas tube injection can be given different sentences where there is an inequality due to the different legal basis (the dualism between the Act No. 2 of Legal Metrology and the Act No. 8 of 1999 regarding Consumer Protection) to sentence sanctions in each similar case, such as the illegal gas tube injection. As seen in the Verdict of PN Jambi No: 30/Pid.Sus//2013/PN.JBI, Verdict of Bandung High Court No. Nomor 66/ Pid/ 2014/ PT. Bdg, and verdict No. 104/ Pid.B/ 2011/ PN.MKD. Based on John Stuart Mill's statement, the equal treatment is not accomplished in the Verdict of PN Jambi No: 30/Pid.Sus//2013/PN.JBI, Verdict of Bandung High Court No. Nomor 66/ Pid/ 2014/ PT. Bdg, and verdict No. 104/ Pid.B/ 2011/ PN.MKD. Often, discussing justice intersects with the philosophy, abstract justice, and imaginative reality where justice is supposed to be contained in the concrete sociological reality within the society.

According to the facts discussed by the writer, the application of Act No. 2 of 1981 regarding Legal Metrology is no longer qualified as *Ius Constitutum*. Moreover, Act No. 2 of 1981 regarding Legal Metrology is one of the instruments closely related to the dynamic economic development, yet, the Legal Metrology law should give a legal certitude.

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